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DOCUMENTS ON KASHMIR PROBLEM

Edited by
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Discussion of the India-Pakistan Question in the Security Council Meeting

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Introduction

The history and culture of Jammu and Kashmir were part of the pan-Indian civilization. It was partly due to geography, the Himalayas and the Western and Eastern ranges separating it from rest of the world, and partly due to the Brahmanical culture, with Sanskrit as the lingua franca, which gave it a unity in the eyes of the upper strata of society. From centuries, Kashmir remained free from racism, communalism and casteism even during the communal structure of Dogra Raj. The National Movement against the feudal exploitation, led by Sheikh Abdullah, which was started in 1930 and continued upto 1947, was the result of the growth of national consciousness in Jammu and Kashmir. Various national leaders of India, including Pandit Jawaharlal and Maulana Abdul Kalam Azad recognized the democratic and nationalist spirit of this struggle. But British imperialists and the Hindu press tried to interpret and project it as a "result of the dispute between the Hindus and the Muslims". Inspites, this anti-feudal movement was participated by a broad section of peasants and artisans came out to fight in the streets. This insurgency of 1931 awakened the national aspirations of the Kashmiris, which ultimately helped in the emergences of a composite Kashmiri culture without any emphasis on Muslim sectarianism. By 1939, every conscious member of Hindu, Muslim and Sikh community joined the national movement. The anti-feudal and anti-imperialist struggle reached another high pitch in 1946. The AJKNC launched the "Quit Kashmir" movement and submitted a memorandum to the Cabinet

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Mission of 1946 demanding absolute right to freedom from the autocratic rule of the Dogra house. The movement was to counter the threat of Muslim communalism that was spread in the wake of Pakistan movement of Muslim League. It also salvaged the tradition of secular nationalism in Kashmir. Launching this struggle for a decisive victory, Sheikh Abdullah, on 15 May 1946, reiterated at Srinagar that "the demand that the princely order should quit the state is a logical extension of the policy of "Quit India". When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people...the rulers of Indian states have always played traitor to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the treaty of Amritsar, and quit Kashmir. Sovereignty is not the birth right of Maharaja Hari Singh. Quit Kashmir is not a question of revolt. It is a matter of right". The Sheikh was arrested on the charge of sedition against the Maharaja. Following his arrest the whole valley rose in an uprising. On 19 June 1946 Pandit Jawaharlal Nehru, Aruna Asaf Ali, Dewan Chaman Lal and Tilak Raj Chadha went to Srinagar to defend Sheikh Abdullah at his trial but were arrested by the Maharaja's administration. On his return to Delhi, Nehru complained to Gandhiji and Maulana Azad, the Congress President that people in Kashmir were grooning under the reign of terror. Mahatma Gandhi visited Kashmir in August 1947 as a guest of National Conference.

The 'Quit Kashmir' movement kept the Muslim communalism in Kashmir at bay. Immediately after independence and the creation of Pakistan Jinnah decided to wrest Kashmir by force and sent raiders for this purpose. The Maharaja of Kashmir was fled. Jawaharlal Nehru decided to send troops to rescue Kashmir on the request of the Maharaja on 24 October 1947. It was done after Kashmir had legally acceeded to India. On 26 October 1947 Sheikh Abdullah also formed a peace brigade and the peoples' militia to defeat the aggression of Pakistan in the valley of Kashmir. Sheikh Abdullah, the

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doyen of nationalism, succeeded in restoring Hindu-Muslim harmony in the valley when the rest of India was burning by communal holocast. There was a good rapport between Sheikh Abdullah, Mahatma Gandhi and Pandit Jawaharlal Nehru. Congress demanded the release of Sheikh Abdullah, and the establishment of popular government in Jammu and Kashmir. National Conference favoured accession of India without instrument of accession.

The Pakistan reacted sharply and contested the validity of the accession. India took the Kashmir question to the Security Council of the United Nations on 1 January 1948 [S/628]. Pakistan made counter complaint [S/646] but admitted that some tribesmen from Pakistan might be helping the "Azad Kashmir government". After debate the Security Council passed two resolutions [S/651 and S/654] It appointed a three member Commission to investigate and mediate in the matter. On 13 August 1948 the UNCIP submitted a report to the Council in three parts [S/1100; S/1196, and S/1430]. Part first of the report contained provisons for a cease fire. Part two dealt with a true agreement, and Part third with the holding of a plebiscite after the implementation of first two parts. India agreed but Pakistan did not. Later on both countries accepted the proposal submitted by the UNCIP to the Security Council on 5 January 1949 dealing with the plebiscite. The cease fire came into effect by 1 January 1949 and a cease fire line was agreed upon in July 1949. But a truce agreement could not be finalised due to opposite stands of both the countries.

The Security Council then appointed mediators. In 1949 General Mc Naughton of Canada was appointed as a mediator who's proposal was rejected by India. Sir Owen Dixon of Australia also could not succeed because he proposed the partition of Kashmir between both the countries rather than a plebiscite [S/1791]. Frank P. Graham of the USA was the third mediator appointed in April 1951 also met with the same fate, however, he suggested a direct negotiation between Indian and Pakistan. He submitted five reports [S/2375, S/2448, S/2611, S/2783 and S/2967].

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In July-August 1953 and in May 1955 the Prime Ministers of both India and Pakistan started negotiated settlement which ultimately failed. After a gap of five years the Pakistan Foreign Minister F.K. Noon raised the Kashmir issue in the UN Security Council and call upon India to refrain from accepting any change in the new constitution of Kashmir—the State of Jammu and Kashmir is and shall be an integral part of the Union of India—and to accept a plebiscite [SCOR, 12th Yr., Mtg. 761]. Mr. V.K. Krishna Menon, the Indian representative informed the Council that the conditions for holding a plebiscite changed in Kashmir. [SCOR, 12th Yr. Mtgs. 762, 793 and 794]. The Security Council favoured plebiscite by adopting a resolution (S/3739) on 24 January 1957. On 21 February 1957 President Gunnar Jarring of Sweden was asked to act as mediator but India refused to accept him for the implementation of the UNCIP resolution, [S/3821].

Meanwhile, the National Conference demanded special status and autonomy for Kashmir in the political—constitutional framework of Indian political system. Article 370 of the Indian Constitution granted Kashmir a special position. It produced a hostile backlash among the Hindi-Hindu fanatics including Sardar Patel and Hindu lobby which demanded conformity of minority to Hindu majority views as well as uniformity by force. In Kashmir this Hindu lobby started non-cooperation movement against the government led by Sheikh. It was supported by the Jana Sangh, the Hindu Mahasabha, the RSS and even by the Akali Leader Master Tara Singh and Mr. S.P. Mookerjee. They criticised Nehru's appeasement policy towards Kashmir. Mr. Mokerjee called this policy as "national liability". This non-cooperation was also supported by Jayaprakash Narayan and Acharya Kripalani. This fanning of the flame of Hindu communalism—especially, in Delhi, Uttar Pradesh and Punjab—resulted in the ambivalence in Sheikh's position about accession to India. Nehru succumbed before these reactionary elements ultimately. Sheikh Abdullah now came to the conclusion "that there was no middle course between full integration and full autonomy, and as the majority in Kashmir would not accept the first alternative, there was no choice but to accept the second."

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Finally on midnight of 8-9 August 1953, the popularly elected leader of Kashmir was dismissed and imprisoned in a most undemocratic and unceremonious fashion by violating the special provisions made in the Article 370 of the Constitution.

On 2 December 1957 Security Council passed a resolution S/3922 after considering the Jarring report and directed P. Graham to make recommendations [S/3984] to the parties for facilitating a peaceful settlement and for the implementation of the resolutions of the UNCIP of 13 August 1948 and 5 January 1949. The Graham report was rejected by India.

During Ayub Khan's regime Nehru-Ayub talks commenced in 1959 and 1960. On 6 October 1960 President Ayub Khan gave a threat of Military settlement of the Kashmir Problems. Threats and counter-threats continued till Chinese aggression on India in October 1962. Besides Pakistani slogan of *Jehad* President Ayub Khan put pressure on USA to exercise its influence for the settlement of the Kashmir issue. The matter was again raised in the Security Council on 1 February 1962 by Pakistan Permanent Representative Zafrullah Khan who asked the Council to take up the consideration of the dispute and to secure to the Kashmiri people their right of self-determination [SCOR, 17 Yr. Mtg. 990]. In the subsequent meetings of the Security Council [Mtgs. 1007 to 1016] Mr. Zafrullah Khan put forward his arguments in support of Pakistan's claim over Kashmir. Mr. C.S. Jha, India's permanent representative to the UN and Defence Minister Krishna Menon contested the Pakistani contentions [SCOR, Mtg. nos. 1009, 1011 and 1016] and reiterated India's claim over the state. Pakistani contention was supported by the U.S. representative and Indian position by the Soviet and Rumanian representatives. US and British representatives on 27 April 1962 tried to persuade the UN Secretary General U Thant for negotiating settlement. The issue was again raised by Mr. Plimpton, US representative, on 21 June 1962 and on 22 June 1962 when he succeeded in pursuading the Irish representative to introduce draft resolution which was vetoed out by the Soviet Union [SCOR, 17 Yr. Mtg. 1016]. Prime Minister Jawaharlal Nehru expressed deep concern over the attitude of Great Powers—the U.S.A. and the U.K. After the Chinese invasion on India both Nehru and

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Ayub agreed for negotiated settlement. Six round of Bhutto—Swaran Singh talks were held between 27 December 1962 to 16 May 1963. The talks failed on the question of distribution of areas.

The disturbances in Kashmir on the disappearance of the hair of prophet Mohammad from the Hazaratbal shrine on the night of 26-27 December 1963 gave opportunity to Pakistan to raise Kashmir question in the Security Council. Though the hair was recovered, Pakistan's Minister of External Affairs, Z.A. Bhutto sent a letter to the Security Council for an urgent meeting [S/5516] to debate on grave situation of the State. Mr. Bhutto asked for a "move towards an honourable and joint solution" of the problem in Security Council's meetings held between 7 February to 11 May 1964 [Mtgs. Nos. 1087, 1089, 1104, 1112 and 1114]. Refuting the charges Mr. M.C. Chagla and Mr. B.N. Chakraverti described the incident as "purely a domestic matter". [Mtg. nos. 1088, 1104, 1113 and 1115]. Though Mr. Roger Seydoux, President of the Council submitted his statement on 18 May 1964 but nothing tangible came out of the debate. [SCOR, Mtg. no. 117].

The Indian government released Sheikh Abdullah on 8 April 1964 withdrawing all charges against him. He was sent to Pakistan to resolve the issue but sudden death of Nehru on 27 May 1964 dashed all hopes. Ayub-Shastri meeting on 12 October 1964 at Karachi and J.P. Narayan's visit to Pakistan brought no change in the attitude of both the countries. Meanwhile Sheikh Abdullah was again arrested on 8 May 1965 on charge of anti-India propaganda. Sino-Pak unison persuaded Pakistan to send armed infiltration into the valley from 6 August 1965. India reacted against this attack specially in the Chhamb. The war was stopped on 22 September. Tashkent Declaration, signed on 10 January 1966 restored the *status quo* in Jammu and Kashmir as it was existed before the 5 August 1965. The Pakistan Foreign Secretary Aziz Ahmed and later on 14 January 1966 President Ayub Khan declared that peace could not be achieved unless the dispute over Jammu and Kashmir was settled honourably and equitably. Bhutto also blamed

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India for creation of the problem. Talking to the British Prime Minister Harold Wilson on 23 November 1966 Pakistani President Ayub Khan said that people of Kashmir "did not like Indian rule" and added that India did not honour the commitment under the Tashkent Declaration. Not only this while speaking before the UN General Assembly meeting on 29 September 1966 Pakistan Foreign Minister, Sharifuddin Pirzada accused India for not honouring the 'UNCIP' resolution of 13 August 1948 and 5 January 1949 about holding of a free and impartial plebiscite [GAOR, Pen. Mtg. 1423]. He also tried to raise this issue in the Commonwealth Prime Ministers' meeting held in London on 13 September 1966. He charged the Indian government with reluctance to allow the Kashmiri people to exercise the right of self-determination. Even Prime Minister Mrs. Indira Gandhi gave a statement in Lok Sabha that "India is not obliged by the Tashkent Declaration to settle the Kashmir dispute with Pakistan". Pakistan government started anti-India propaganda. Ayub Khan described Indian army as "special danger to Pakistan". He stressed on the solution of the Kashmir problem. On 10 October 1967 Pakistani Foreign Minister Mr. S. Pirzada raised a question in the UN General Assembly meeting [GAOR, Pln. Mt. 1584] and demanded "self-determination" for the people of Kashmir, to which India was committed. Similar demands were made by Arshad Hussain, the new foreign minister of Pakistan in the UN General Assembly meeting [GAOR, Pl. Mtg. 1682] and Pakistan's National Affairs Minister Nawabzada Muhammad Sher Ali Khan, [GAOR Plan. Mtg. 1775] on October 2, 1969. Pakistani Home Minister Sardar Hamid accused India for avoiding discussions in the United Nations [GAOR, Pln. Mtg. 1853] on 29 September 1970. Meanwhile, Pakistani press, specially *Pakistan Times* and *Dawn* made vehement propaganda against India. "That India is suppressing freedom of the press in occupied Kashmir and adopting ruthless measures in curbing the students and youth" Kashmiris are treated as second class citizens. Pakistan supported the terrorists in Kashmir.

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A hand grenade was thrown on the Kashmir Chief Minister, G.M. Sadiq on 16 May 1966. Terrorists confessed that they were imparted training by Pakistani officers. The subversive activities of the Pakistani infilterators continued till date. The cease-fire violations took place frequently. Both India and Pakistan accused each other for violation of cease-fire agreement. In short Kashmir remained full disturbed between 1966 and 1969.

Pakistan protested strongly against India's measures to extend the application of Indian laws to Kashmir and described these contrary to the UNCIP and other resolutions of the United Nations. These bills, according to Pakistan, would give sweeping powers to the Indian Government to outlaw any organisation or any individual found guilty of questioning the India's sovereignty over any of the territories.

On 11 January 1968 Prime Minister Mrs. Indira Gandhi and Deputy Prime Minister, Morarji Desai desired to normalise relations with Pakistan by implementation of Tashkent Agreement but Pakistan did not respond favourably. Pakistan was insisting on "meaningful discussions on Kashmir". India's appeal to Pakistan for 'no-war pact' was turned down by Ayub Khah who described his proposal as "misleading" unless Kashmir dispute was solved. During the time Sheikh Abdullah and Mirza Afzal Beg were released from Jail on 3 January 1968. They demanded self determination for the Kashmiris. The hostile and anti-India attitude of Sheskh Abdullah put India in embrassing situation.

General A.M. Yahya Khan who assumed the charge from President Ayub Khan on 25 March 1969 showed his willingness for some time to establish a peaceful atmosphere between the two countries. Mrs. Indira Gandhi sent a personal letter to Mr. Khan on 22 June 1969 and suggested to revive the no-war pact proposal and a joint machinery to examine comprehensively all aspects of normalisation of relations. General Yahya Khan accepted the proposal with provision that the machinery of Indo-Pakistani body should discuss all issues including Kashmir and Farakka barrage. But after the exchange of

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letters between the two governments, no follow-up actions could be taken up by either of the governments. Instead President Yahya Khan banned all the exchange of printed materials between India and Pakistan, commericial, economic and cultural relations were completely cut off. Tashkent agreement, though Mrs. Indira Gandhi wanted to implement, went unsung and unheard. On 28 July 1970 President Yahya Khan again asked for amicable solution for Kashmir problem to establish cordial relations between both the countries.

Mr. Z.A. Bhutto advocated for quasi-military approach for the solution. Ashohar Khan recommended Algeria type struggle for Kashmir liberation. General Yahya Khan raised Kashmir's issue in UN General Assembly in October 1970 and demanded 'self determination' and withdrawal of forces of the two countries. India rejected the proposal and told that the State's accession to India in 1949 was complete. However, India favoured bilateral talks under Tashkent spirit. Mr. Z.A. Bhutto exploited the situation by raising war bogy against India. He formed Pakistan People's Party on 1 December 1967. December 1970 polls in Pakistan brought conflict between East and West Pakistan, ultimately resulted into the creation of Bangladesh. India-Pakistan relations were further deteriorated when on 30 January 1971 an Indian Airlines plane was hijacked to Lahore with Pakistani connivance and was allowed to be blown up at the Lahore airport. Hijackers were granted asylum and were given hero's welcome there. India banned all Pak flights over the Indian territory. After India-Pakistan war of 1971 both Mrs. Indira Gandhi and Mr, Z.A. Bhutto on 2 July 1972 concluded an agreement at Simla. It was promised to respect line of control resulting from the cease-fire of December 17; 1971 in Jammu and Kashmir. They also decided to settle the Kashmir issue by mutual talks President Zia-ul-Hag, Prime minister Benazir Bhutto, Rajiv Gandhi, V.P. Singh and Sheikh Abdullah came and went but the Kashmir remained unsolved.

Documents on Kashmir Problem is an excellent attempt of authentic and comprehensive compilation of published documents and other literature on the subject—Kashmir dispute.

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It presents the text of important documents including publications of the Government of India and Pakistan, United Nations officials documents, treatments, treaties, agreements, proposals, debates—both in UN Security Council, General Assembly—and Parliamentary debates— reports and recommendations, letters, telegrammes etc. The publication wou'd help the research scholars, academicians, educationists, politicians as well as curious laymen in understanding the issue. Compilers have made an honest attempt to be objective and impartial in compiling, editing and presenting the documents to prove their authenticity the sources of documents are also added.

We express our deep sense of indebtedness to the library staff of Indian Council of World Affairs Library, New Delhi, Nehru Memorial Museum Library, New Delhi, United Nations Information Centre, New Delhi, Jawahar Lal Nehru University Library, New Delhi, and Ministry of External Affairs Library, New Delhi for the help rendered to us during our visits there.

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130. *Text of the speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council Meeting No. 535 held on 7 March 1951.*

When the Council adjourned yesterday afternoon [534th *meeting*], I was about to proceed to deal with the suggestion made by the representative of India [533rd *meeting*] that, in agreement with a similar suggestion made by Sir Owen Dixon in his report, the Security Council might agree that the initiative in this matter should now pass to the parties themselves, and that the parties should be left to settle this dispute by direct negotiations.

The Council is aware that, ever since this dispute arose, repeated efforts have been made by the Government of Pakistan, in direct negotiation with the Government of India, to arrive at a just solution of the Kashmir question. The earliest effort was made immediately after the tribal incursion into Kashmir. The Council will recall that it was then suggested to the Government of India, on behalf of the Government of Pakistan, that the matter should be committed to the authority of their respective Governors-General, and that the two Governors-General should issue an appeal for restoration of law and order. Pakistan undertook that, if this appeal did not succeed in securing the withdrawal of the tribesmen from the territory of the State of Jammu and Kashmir, Pakistan would be prepared to take military action jointly with India to expel the tribesmen from the territory of the State; and that, once that had been secured. whether as a result of the joint appeal of the two Governors-General or as a result of military action that might become necessary, the administration of the State should become the responsibility of the two Governors-General, who should then proceed to organize and hold a free and impartial plebiscite in the State to determine whether the people of the State desired to accede to India or to Pakistan.

I maintain that was the fairest possible solution of the situation which had arisen and the fairest settlement of the

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dispute over accession. Nobody can suggest that it would have given any kind of advantage to Pakistan or, indeed, to India, and that is the reason why I maintain that it was a very fair solution.

The trouble which had arisen was still in its initial stages. That solution did not commend itself to the Government of India, and the principal reason it advanced against it was that, for constitutional reasons, it was not willing to invest its Governor-General with the needed authority to act on its behalf. Pakistan, on the other hand, was ready to invest its Governor-General with the needed authority. It was in reply to that suggestion that the Prime Minister of India made the offer, part of which I read out from his telegram of 8 November yesterday afternoon, when I drew attention to paragraphs 10 and 11 of that telegram.

That was our first attempt to come to a settlement with the Government of India of the problem, that had arisen. Since then, over the course of the years 1948, 1949, 1950 and even 1951, efforts have been made to reach a settlement by negotiation if possible, but those efforts have been unavailing. I need not dilate upon them nor draw the Council's attention to them. The conversations which have taken place and the correspondence which has gone on have not led to anything concrete. I therefore submit that it is wholly unrealistic to suggest that the parties ought to be settle this matter by negotiation between themselves.

As I set out before the Council yesterday afternoon, an international agreement exists between India and Pakistan with reference to the Kashmir dispute. The whole difficulty is to get India to implement it. Effort after effort has been made by the Security Council, by its representatives, and by the Commonwealth Prime Ministers, but they have been unable to secure a resolution of the deadlock. To suggest now that the deadlock could most easily be resolved by negotiations between the parties is tantamount to saying that the Security Council should now abdicate its functions in respect of this dispute and that international peace should be subjected to the further perils that arise from a continuation of this dispute between India and Pakistan.

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In this connexion, when making this suggestion the representative of India called the attention of the Security Council to a Press report, according to him dated 20 February from Karachi, to the effect that Sardar Mahammad Ibrahim Khan, former head of the *Azad* Kashmir Government, had expressed the view that all Indo-Pakistan disputes, including the dispute relating to Kashmir could be settled by India and Pakistan between themselves by mutual discussion. Even if that were so, even if Sardar Mahammad Ibrahim Khan had said this, that would be the opinion or the hope of one individual who might well make a mistake in assessing the possibilities of a settlement by mutual negotiation. It is not as if Sardar Mahammad Ibrahim Khan were speaking on a question of fact. It so happens, however, that Sardar Mahammad Ibrahim Khan did not say that some Press agency has attributed to him.

Apparently, on noticing in the Press what was attributed to him, Sardar Mahammad Ibrahim Khan, dispatched a telegram to the President of the Security Council which reads as follows ;

> "My statement as reported by the Press Trust of India and quoted by the Indian representative is wholly incorrect. The correct text of the statement made by me, representing my views and published in the *Pakistan Times* of 23 February 1951, is as follows..."

It will be recalled that the draft resolution now before the Security Council [*S/2017*] was presented to the Council on 21 February in the afternoon, when it was already 22 February in the Indian sub-continent. This statement of Sardar Mahammad Ibrahim Khan was published on 23 February. He has quoted his statement, which is as follows :

> "The draft resolution as presented to the Security Council by the Anglo-American delegations is a definite deviation from the stand taken by the Council in its earlier resolution and amounts to appeasement of intransigence of India.
>
> "It is comforting to note that the proposal made by Sir

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Owen Dixon in his report to leave the parties concerned to settle the dispute among themselves has been rejected. I Suggest that the Security Council should be asked to issue an injunction order to the Government of India and Dogra Government restraining them from holding elections to the proposed State 'constituent assembly' as nothing short of an over-all plebiscite will satisfy the Kashmiris.

"As regards arbitration, I am of the view that it would be desirable to have ready arbitration machinery evolved beforehand and incorporated in the resolution so that during negotiations with the two Governments, if any point of difference arose, it could immediately be referred to arbitration on the spot.

"The State of Jammu and Kashmir should remain one single unit, and no government or party should be allowed to function during the plebiscite.

"The Security Council should ensure that the Muslim population of the Indian occupied part of the State is not hounded out, either through starvation or terrorization."

It will thus be appreciated by the Security Council that the version of this statement to which Sir Benegal Rau referred in his speech on 1 March could not possibly have emanated from Sardar Mahammad Ibrahim Khan. It is inconceivable that any Press agency could have made a mistake on the point, unless it invented the statement itself, inasmuch as the statement that I have quoted does refer to this point and says exactly the opposite of what it is alleged Sardar Mahammad Ibrahim Khan said. He said :

"It is comforting to note that the proposal made by Sir Owen Dixon in his report to leave the parties concerned to settle the dispute among themselves has been rejected."

Therefore, as I have submitted, even if Sardar Mahammad Ibrahim Khan had said what was attributed to him, that really would have no relevance to the issue. It would be the opinion or the appraisal of one individual. But actually he has not said that to which the representative of India drew the Security Council's attention.

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What would be the result if any such counsel were to be followed? It would enable India to consolidate its hold on Kashmir and to continue systematically to alter the composition of the population by forcing or driving out more and more Muslims as refugees into Pakistan, and settling non-Muslims in their place.

The representative of India said the other day, in the course of his speech, that conditions in Kashmir were now settling down and that it would be a pity to disturb them—presumably through further efforts to bring about a peaceful settlement of the dispute. One of the aspects of the settling down of conditions that is taking place is a constant stream of Muslim refugees out of Kashmir into Pakistan. And our information—of course, it is not based on the personal knowledge of any of us, inasmuch as we have no access to the Valley itself—is that a good deal of the substitution of the population has gone on and is still going on; that is, that refugees from India—refugees who had to go to India as such, non-Muslims—are being settled in the territory of Kashmir.

The truth is that nothing is settling down in Kashmir. The vast majority of the population is being held down by military force. If that can be called settling down, it is true that it is settling down in the sense that this vast majority of the people of Kashmir have, during the last three and a half years, been stretched on the rack. They are, fortunately, still breathing. Possibly it is felt that their breathing is gradually subsiding and, therefore, perhaps that process is being described as a settling down of conditions.

There can be no settling down of conditions until the people of Kashmir are given the fullest right to determine, absolutely and freely, without any kind of hindrance or influence or pressure, the question of accession of the State to India or to Pakistan. On behalf of India, any suggestion that India should relax its hold over Kashmir is resented.

India resents any suggestion that it should relax its hold on Kashmir. Because the Government and people of Pakistan demand this, they appear to Indian eyes as disturbers of peace

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and as inciters to war. India desires to be left alone to complete the strangulation of Kashmir, and every voice raised in protest against its broken pledges and its tyranny in Kashmir jars on its ears. One can appreciate that kind of sensitiveness, though of course one cannot be expected to sympathize with it.

Again, Sir Benegal Rau has made a reference to propaganda in Pakistan threatening war over Kashmir. I suppose the insinuation is that India stands only for peace and non-violence while Pakistan is a warmonger. True, in Pakistan there has been, there still is, a great deal of agitation in the minds of the people over this problem of Kashmir. It would be futile to deny that the situation has often boiled up to bursting point. That shows the degree of intensity of feeling in Pakistan over this question, but that war or warlike policies are threatened from the Indian side cannot be denied. Apart from certain military movements that took place some time ago in India towards the borders of Pakistan, the only objective of which could be to overawe Pakistan, there is the statement of Mr. Khare, the President of the Hindu Mahasabha, an important political body to which the President of the Indian Union recently sent his good wishes. Incidentally, the Hindu Mahasabha is a purely communal Hindu organization. This statement appeared in the Press on 22 February 1951. Mr. Khare's solution is short and sharp. Referring to Kashmir, he said the solution was "to attack and attach it".

It would be unprofitable to go on multiplying references to that which, if it proves anything at all, proves that certainly in Pakistan, possibly all throughout India, there is great agitation and disturbance of the public mind over the continuation of this dispute. The only conclusion that can be drawn therefrom is that speedy, vigorous and effective action is needed to bring about a peaceful settlement of the dispute, if worse is not to happen and if worse is not to be faced.

Sir Benegal Rau also drew the attention of the Security Council to the fact that India had already reduced its forces in

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Kashmir by 20 to 25 per cent without waiting for any corresponding reduction by Pakistan. That, again, is a matter on which, in the nature of things, we have no direct information. I have no reason to question this statement made by my distinguished friend. I accept it as correct, but, on the other hand, our information is that, even af er this reduction, India maintains at the present moment something like four divisions in Kashmir. This is many times the strength of Pakistan forces in the *Azad* Kashmir area. The total strength of the Indian armed forces, we have been informed, in Indian-occupied Kashmir is roughly 65,000 men. This, again roughly, means one Indian soldier for every forty Kashmiris. In addition, there are the State armed forces, including the State army and militia, totaling twenty-one battalions and a cavalry regiment. That is, we believe—and it is based on such information as is available to us—a fair estimate of the armed forces maintained in the Indian-occupied portion of Kashmir.

I have said that the proportion of the Indian armed forces alone, leaving out the State army and the State militia, is one to forty Kashmiris, men, women and children. What is the significance of that? As has been observed by Sir Owen Dixon, the people of the Valley, of whom we are talking at the moment, are not a high-spirited and independent people. They are extremely timid. They have been rendered timid, and some of the stories of their timidity, if related, would raise both laughter and pity. They have been rendered timid by a hundred years of the most grinding tyranny under the Dogra rulers. They are a highly artistic people, even in their present state. Specimen's of their artistic work fetch high prices and are highly appreciated in Pakistan, India and elsewhere. Given the chance, they are also an extremely cultured people, although that kind of chance comes to a very small percentage of the people of the Valley of Kashmir, and only when they have left the Valley. Those who have gone outside Kashmir and settled down in Pakistan and India not only have given an extremely good account of themselves, but they have always risen to the highest positions, both in public life and in the field of letters and culture, in much larger numbers in propor-

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tion to their size in Pakistan and India than any other section of the population.

The late Sir Mohamad Iqbal, the great poet and philosopher, with whom originated the very concept of Pakistan and who first gave expression to it—though the name came into existence later—was himself a Kashmiri. He has written and sung of Kashmir and Kashmiris with especial pathos in poignant prose and verse. Even he, a Kashmiri, was forced to confess that the Muslims of Kashmir had been reduced to a condition which he described in one of his verses as follows: "The Kashmiri has come to hug slavery to his bosom". The result has been, again as expressed by Sir Mohamad Iqbal, that the Kashmiri is "a stranger to the dignity of self, ashamed of his ego."

He prayed for something that might inspire the lowly people of Kashmir with a spark of dignity. Here is a Kashmiri of the present generation—Sir Mohamad Iqbal died only a few years ago—describing the degradation, the misery, the wretchedness of his own people. In another verse, he said: "The Kashmiri, the bondsman who himself goes about in rags, while his master adorns himself in the beautiful silks woven by his slaves". This is an almost literel description of the conditions in Kashmir.

That was Sir Mohamad Iqbal. The present Governor-General of Pakistan is a Kashmiri. The Minister of the Interior in the Pakistan Central Government is a Kashmiri. The Governor of Sind, one of the provinces of Pakistan, is a Kashmiri. The Prime Minister of the Northwest Frontier Province is a Kashmiri, and a host of others, as a I have said, occupy very honourable positions in the cultural life of Pakistan, and indeed, even of India. That is the kind of people who have been reduced to the conditions I have described in the words of Sir Mohamad Iqbal and which has been described in very moderate language by Sir Owen Dixon. There is one armed Indian soldier to forty Kashmiris. As a matter of fact, one soldier armed with no more than a bayonet could drive 4,000 Kashmiris today in whatever direction he desired.

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The Security Council can judge to what extent the presence of any troops among people of that kind, who have suffered to that degree and to that extent, would interefere with the freedom and impartiality of the plebiscite. As a matter of fact, it would not be a question of interference. The mere sight of somebody whom the Kashmiris supposed was posted there by Sheikh Abdullah's Government and who desired the accession of Kashmir to India would persuade 99 Kashmiris out of 100 to vote for the accession, although every one of those 99, left to himself, would vote for accession to Pakistan. In those circumstances, India's continued occupation of Kashmir by force and its insistence upon retaining its armed forces in Kashmir, is a most flagrant act of aggression and a most potent threat to the maintenance of international peace.

It is an aggression not only against the people of Kashmir, but also against Pakistan. It is a threat to the very existence of Pakistan, since India aims thereby not only to encircle Pakistan strategically, but also to have its economy at its mercy by control of all the rivers which are the life-blood of West Pakistan. That the reference to strategic encirclement is not a figure of speech is borne out by Sheikh Abdullah himself. A Press report of a statement which he gave in Delhi on 21 October 1947 reads, in part, as follows :

> "Due to the strategic position that the State held; if this State joins the Indian Dominion, he thought, Pakistan would be completely encircled."

Owing to India's persistent refusal to withdraw its forces and permit a fair and impartial plebiscite to be held. Kashmi is today an explosive spot and is a cause of the most acute anxiety to the whole world, but more particularly to Pakistan to our neighbours both in the Middle East and in the Far East. It may be within the knowledge of the Security Council—inasmuch as some of these communications have been addressed to the Secretary-General and may have been passed on to the Council—that the Iranian Parliament, a number of Syrian

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Deputies and a number of Iraqi Deputies have expressed their anxiety over the continuation of this dispute and have requested that, having regard to the peace of that region of the earth and ultimately to international peace, this dispute should be quickly and fairly and justly resolved through peaceful methods.

More recently, expression has been given to similar sentiments on behalf of the non-official representatives of the whole of that region in the sessions of the *Motamar*, or the Conference of Islamic Countries, which took place in Karachi.

It would be enough to quote in this connexion the view of one who took part in the discussion on Kashmir in the recent Prime Ministers' Conference in London. I refer to Mr. Menzies, the Prime Minister of Australia, one of our Far Eastern neighbours. I take this quotation from *The Times* of London of 16 January 1951 :

> "I want to say to my friend, the Prime Minister of Pakistan, as I would say to the Prime Minister of India if he were here tonight, that there is nothing we are not prepared to do to get rid of a matter which, so long as it continues, is not only a threat to the peace and good government of the Indian sub-continent, but is a grave threat to the security of the entire free world."

The problem before the Security Council can be very briefly stated. It is to insist upon India's carrying out the obligations that it has undertaken. The disparity between India's professions, both in connexion with Kashmir and in connexion with other problems, and its action, is so wide that the world stands puzzled by it. Most people imagine that a great country, as India undoubtedly is, claiming to be a peaceful Member of the United Nations and professing to base its conduct on the loftiest moral principles—and in fact, preaching to the world from a high moral pedestal—could hardly be so inconsistent where its own obligations are concerned. Yet, no fact in recent history is so indisputably established as this : that India has, over a long period, through various excuses, persistently refused to carry out what it had undertaken to do.

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The United Nations Commission for India and Pakistan was compelled to recognize this and, indeed, to record it. General MacNaughton, in his turn, was faced with the same intransigence. Sir Owen Dixon made a most determined effort and ultimately became convinced that India could not be persuaded to honour its obligations. But, not deterred by this record, the Commonwealth Prime Ministers made a determined effort to persuade India to honour its commitments. However, like all those who made that effort before them, they also failed.

India realizes that no impartial person would regard its excuses or interpretations as valid, and therefore it refuses to face arbitration. It turned down the proposal for arbitration put forward by the Commission. Throughout the year 1950, the Prime Minister of Pakistan, in personal discussion and in correspondence with the Prime Minister of India, tried his utmost to get the Prime Minister of India to accept arbitration for settling all outstanding disputes between India and Pakistan if negotiations and mediation should fail. The Prime Minister of India would not agree.

I venture to submit that no party to a dispute, let alone a great country like India, which knows its stand in a dispute to be just, would refuse impartial arbitration. India's refusal is a clear indication of India's own estimation of where it stands. It knows it is wrong, and therefore it has turned down every suggestion that some impartial authority should determine those points with regard to which the two parties are at variance, relating to the international agreement embodied in the resolutions of the Commission of 13 August 1948 and 5 January 1949 [S/1100, S/1196].

But even where the stand of a party is deemed not to be fair or just, at least by the opposing party, in the ultimate resort what is the method of resolving a deadlock of that description? There is an agreement affirmed by both, accepted by both—still affirmed and accepted by both; differences arise with regard to its interpretation or method of implementation; one side insists that its interpretation of the agreement should be

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accepted and given effect to; the other party does not accepted that interpretation as valid. How in the world can you decide a dispute of that kind except through arbitration, if mediation or conciliation or other attempts at adjustment should fail, as they have all failed in this case ?

Let us assume for one moment that the fault is wholly Pakistan's. After all, that is the utmost that my learned friend could contend. Let us assume that, in respect of every matter that is holding up the progress of a settlement, Pakistan is to blame and is in the wrong. Well, Pakistan says : "Let an impartial authority look into the matter and tell both sides what their obligations are. Let both sides say, 'We ere and now agree that, when we are told what our obligations are, we shall carry them out fully'."

What more is required of us, assuming we are in the wrong ? After all, India can only contend that it is in the right and that we are in the wrong. Very good. Then let us get somebody to tell us what our obligations are and to tell India what its obligations are—and let us both agree that we shall do whatever he tells us to do.

On numerous occasions, Pakistan has expressed its willingness to have its pending disputes with India settled through arbitration. I shall draw attention to only one statement of the Prime Minister of Pakistan, made in the course of what has now come to be known as the "No War Declaration" correspondence. I believe the correspondence has been made public. In paragraph 3 of his letter dated 21 November 1950, to the Prime Minister of India, the Prime Minister of Pakistan wrote :

> "It seems to me that, if we are to move forward, we must face squarely what it is that has prevented India from accepting my No War Declaration. Reviewing our correspondence, it becomes quite clear that the crux of the difficulty is the reluctance of your Government to substitute, on any issue, impartial arbitration for threatened and actual use of force. India has been unwilling to accept the decision of an impartial arbiter or any issue now outstanding. Pakistan is and has been willing to

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accept the decision of an impartial arbiter on every issue outstanding between us."

Can Pakistan be called upon or expected to make any greater contribution toward the settlement of international disputes through peaceful methods ? As I have already said, let us assume for one moment that every charge that my learned and distinguished friend from India makes against Pakistan has substance. Well, then, we will go to arbitration and we will be turned down. We are prepared to take that risk. Why does not India eagerly embrace this fair opportunity offered to it of having every one of these matters in which it considers itself in the right decided in its favour ?

This then, is the situation which the Security Council has to resolve : that India, while professing to adhere to the international agreement contained in those two resolutions, and repeating its acceptance and affirmation of it, refuses in actual fact to carry it out.

The rejection by the representative of India of the United Kingdom-United States draft resolution which is now before the Security Council is the latest instance of this intransigence. The main ground that he has put forward for rejecting the resolution is that it endorses Sir Owen Dixon's proposals for demilitarization, which, according to the representative of India, go beyond the terms of the resolutions of 13 August 1948 and 5 January 1949.

As I tried to explain to the Security Council earlier, the resolutions divided the demilitarization process into two stages, the truce stage and the plebiscite stage. I will not repeat that; I submitted it as late as yesterday to the Council. India took objection with regard to something that was to be attempted and carried out in the second stage on the ground that it should be carried out in the first stage. Being impressed by the consideration that the solution of the difficulty proposed and put forward by India might help to move matters forward, Sir Owen Dixon produced a scheme of demilitarization proposing that demilitarization should be carried out in one stage. It

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was obvious therefore that the whole of the demilitarization problem could be dealt with in that stage. India took objection to that on the ground that it attempted to deal with the State armed forces also. But if the whole of the problem of demilitarization had to be dealt with in one stage, it had to deal with all that the two resolutions had attempted to deal with : the whole of the Pakistan forces, the *Azad* Kashmir forces, the Indian forces, and the State forces and militia. The State armed forces are expressly mentioned in sub-paragraph 4 (*a*) of the resolution of 5 January 1949, as I pointed out yesterday.

Then Sir Owen Dixon took up the same idea and attacked the whole demilitarization problem together. Naturally, when you depart from the method of implementation laid down in an instrument, some changes do creep in, but the objective remains the same, namely the demilitarization of the State to the extent which will enable a fair and impartial plebiscite to be held. He put forward his scheme, but objection was taken to that on the ground that it departed from the two resolutions. India will not do what the two resolutions say : it says they mean something else. India will not agree to have the point in dispute arbitrated upon, it will not do what it has already agreed to do, taking into account the disbanding and disarming of the *Azad* Kashmir forces, and it will not do what Sir Owen Dixon suggests.

If at this stage all that is attempted is another mediation, the whole history of the dispute shows that it will meet with the same result as previous mediation efforts. Those who are waiting in agony and impatience upon the action to be taken by the Security Council to resolve this most explosive problem will be compelled to come to the conclusion that the Security Council is not prepared to deal with it, as its duties as the principal organ of the United Nations make it imperative that it should.

What is it that we suggest might help to move matters forward ? We submit that the Security Council should depute an outstanding personality of high repute and standing to bring about the implementation of the internanional agreement

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and to carry out its implementation, and should give him full powers for the discharge of his responsibility, including the power to effect demilitarization by removing or disbanding the military forces of all interested parties—to use the words used by Sir Gladwyn Jebb on 21 February [*532nd meeting*]—to exercise effective supervision over the functions of government in the State and to decide finally any points of difference which might arise between the parties in the carrying out of those duties, including the interpretation of any clauses of the international agreement embodied in the two resolutions of the Commission which were accepted by the parties and which both parties continue to accept. At the same time, the Security Council should call upon both India and Pakistan to withdraw their forces and to extend full co-operation to the United Nations representative in the discharge of his duties.

In view of the information now before the Security Council relating to the proposal to call a State constituent assembly in Kashmir, India should be asked not to proceed with the convocation of the constituent assembly in Kashmir and not to make any attempt to determine unilaterally the future of the State. By taking this action the Security Council would be putting to a final and conclusive test the professions of the Government of India that it is ready to honour its obligations under the resolutions of 13 August 1948 and 5 January 1949.

The draft resolution now before the Council should therefore be modified in the sense that I have indicated. There are some clauses in that draft resolution which should be omitted and there are others which need to be amended. For example, sub-paragraph (4) (iii) relates to the possibility of boundary adjustments, which in fact would mean a partial partition of the State. This sub-paragraph is in contravention of the international agreements embodied in the resolutions of August 1948 and January 1949, and should be omitted. This is something which has not been asked for either by India or by Pakistan, neither has either of the two main political parties in Kashmir, the National Conference and the Muslim Conference, asked for anything of the kind, in fact, all parties are opposed to this suggestion. Here is the latest pronouncement of Sheikh

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Abdullah on this point, reported from New Delhi on 24 February. I am quoting from the *Pakistan Times* of 25 February, and in the course of his statement on the resolution, Sheikh Abdullah is reported as having stated :

> "The latest resolution has again insinuated the suggestion for the partition of the State in its final disposition, so as to secure parts of it for both the States of India and Pakistan. This holds out dangerous possibilities of the dissolution of the State of Jammu and Kashmir as an organic unit and is bound to result in the people being deprived of their nation's existence and identity."

I need not at this stage go into further details on the draft resolution, but I shall do so if the necessity should arise. At the present moment we are, as I conceive, occupied with the main question of principle, which is that the two resolutions of August 1948 and January 1949 have been accepted and reaffirmed by both sides and the effort of the Security Council must be directed towards the implementation of those two resolutions. The whole object of those two resolutions is to move forward, towards, and to organize and hold, a free and impartial plebiscite, and it is that object which must be kept in view all the time. Every step that is necessary must be taken towards the achievement of that objective, and no step must in the slightest degree take away from the freedom and impartiality of the plebiscite.

The representative of India referred to the interests of the people of Kashmir, and this is what the interests of the people of Kashmir demand. He said :

> "The people of Kashmir are not mere chattels to be disposed of according to a rigid formula; their future must be decided in their own interests and in accordance with their own desires."

Nobody is suggesting that the people of Kashmir should be disposed of in accordance with any formula, rigid or otherwise. There has been constant insistence upon this : that every

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factor likely to compel anybody in Kashmir to express a view on this problem which he does not freely hold should be excluded. Is that a rigid formula ? It is the only principle which can enable the people of Kashmir, in the words of the representative of India, to decide their future "in their own interests and in accordance with their own desires."

The vast majority of these people have, as I have said, suffered for over a century under the most despotic tyranny. They are today living under constant threat and dread of bayonets. Undoubtedly their future must be decided in their own interests and in accordance with their own desires, but it is only the people of Kashmir, voting in a free plebiscite, who can decide their own future in accordance with their own interests and desires. We do not ask for more, but we shall not be content with less.

The representative of India has talked of concessions to Pakistan, and has said that India can make no more concessions. We ask for no concessions. It is a concession that this problem should be decided through a free and impartial plebiscite ? And if it is a concession, to whom is it a concessions ? The representative of India painted a very attractive picture the other day of conditions in India and conditions in Kashmir. If a free and impartial plebiscite is held, and that picture represents the actual state of affairs, everyone in Kashmir will vote for accession to India should be eager to push forward to that consummation.

I have stated on previous occasions before the Security Council and I repeat that if any proposal made by me will, in the opinion of the Council, have the effect of swaying the vote of even a single voter against his free wishes, in respect of this matter, that proposal should be rejected. But the same criterion must be applied to every Indian proposal.

Am I asking for concessions ? Am I seeking to apply a rigid formula ? The duty of the Security Council is clear. I am asking for no more. It is only thus that we can secure for the people of Kashmir the right of self determination. It is in

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this spirit that Sir Gladwyn Jebb made the following remarks in his speech of 21 February [*532nd meeting*] :

> "Whatever difficulties may have been felt by either of the parties in the past, I hope that there will now be a ready acceptance of the principle that the best guarantee of a fair expression of the wishes of the people of Kashmir is the removal or disbandment of the military forces of all interested parties and their replacement by United Nations forces which can have no interest to sway the vote either way. As a principle this seems to us at least to be so axiomatic that we can hardly believe that it will not be accepted by the Council and by those immediately concerned. For if it is not accepted, it can only mean that the contestant denies the whole conception of settlement by plebiscite which after all has already been accepted without reservation."

I, on behalf of Pakistan, readily accept the principle laid down by Sir Gladwyn Jebb. I trust that my learned and distinguished friend representing India will also do the same. But whether he does or does not, the duty of the Security Council is clear. It is to take prompt and vigorous action to hold a free and impartial plebiscite in Kashmir. Without this, there is the greatest danger to the peace of Asia—indeed, it can easily be to the peace of the whole of the world. Events are moving fast. There is no time to lose.

The Prime Minister of Pakistan, in a letter dated 14 February 1950, urging the Prime Minister of India to accept arbitration about standing disputes between India and Pakistan, said the following :

> "In all disputes there is a danger that the party which is in possession of and wishes to withhold the rightful due of the other may so conduct itself as either to prevent a fair settlement or to cause such delay in settlement as to produce the same result. Either cause engenders a sense of injustice, frustration and despair of securing a remedy

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by peaceful means, which is one of the most frequent causes of conflict."

On the question of Kashmir, which is both the key to and the barometer of India-Pakistan relations, the sense of frustration and despair has already mounted to a dangerous pitch. The task before the Security Council is of the utmost importance and urgency. I solemnly appeal to the Council to approach that task in that sense of urgency.

It has been said, on behalf of India, that India is a secular State, that it is democratic, that it is progressive, and that it is non-violent. It is not my purpose to question India's greatness on the basis of these claims or, indeed, of many others which readily suggest themselves. It has been either alleged or insinuated that Pakistan has been guilty of aggression, that Pakistan is retrogressive, that Pakistan is a theocratic State. I do not know what that might mean, but somehow it is employed as a term of derogation.

It is not my purpose, especially at this late stage, to enter into a discussion of the relative merits of India and Pakistan. Those who made these charges against Pakistan are well aware that the interim Constitution of Pakistan today is the same as the interim Constitution of India was before its new Constitution came into force. They are also aware that the proposed Constitution of Pakistan which is being framed, to the extent to which the reports of the Committees have been received, guarantees the same or similar rights, privileges, and safeguards to minorities and groups. It safeguards the same freedoms as the Indian Constitution does. I have no desire to enter into a comparison on that basis. Let us assume for the moment, for the sake of argument, that Pakistan is guilty of all the crimes in the calendar—and I would repudiate any suggestion of that kind on the merits—but let us assume for the moment that Pakistan has been guilty of every crime, then does it follow that the people of Kashmir, because Pakistan has been guilty, should be denied the right of self-determination? What is the connexion between the two arguments? Should not their agony be terminated in some fair way?

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Pandit Nehru has recently said : "Kashmir, if it goes to Pakistan, will be ruined." Pakistan itself is for the moment, whatever the wishes in certain quarters, by the sheer grace of God, far from being ruined. And it is the grace of God alone that can enable an individual or a people or a State to survive or to progress towards prosperty. But even if the apprehension of the illustrious Prime Minister of India were to any extent well founded, it may be that Kashmir might prefer to be ruined with Pakistan, as a land of free men rather than to live in luxury in the bondage of India. There are human values which often rise above these considerations. There has been a persistent denial of those values during the last three and a half years. How long will the denial continue without danger of consequences that may be so grave that no reversal may be possible ?

This is what I had to submit at this stage, and I shall wait to hear what the Security Council will say is the choice offered Pakistan and the people of Kashmir. What should they do to bring about a peaceful settlement of this problem, consistent with their honour and dignity and the principles of fairness and justice ?

I am grateful to the President and to the Security Council for the indulgence that they extended to me yesterday and today. I have spoken with emphasis under the pressure of the agony of Kashmir and the apprehension of the tragic horrors that may overtake that part of the world if this dispute is not speedily, justly, fairly and peacefully settled. It has been difficult, on some aspects of this problem, to speak with due restraint. I have tried to exercise that restraint but I may have failed on occasion. Expressions may have escaped me that might have jarred the sensitivity of members of the Council, and particularly those of my distinguished and learned friend, Sir Benegal Rau, for whom, as he is well aware, I have always entertained and continue to entertain the highest esteem If that should have happened, I would beg him and the members of the Council to extend their indulgence further, so as to overlook anything of that kind.

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131. *Text of the speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 536 held on 9 March 1951.*

The distinguished Foreign Minister of Pakistan has covered a good deal of ground in his speech [*534th and 535th meetings*]; much of it is ancient history, hardly calling for any new reply. I shall only deal with the more important points.

The first point I should like to deal with is the allegation that the accession of Kashmir to India was the result of a conspiracy between the Hindu leaders of India and the Maharaja of Kashmir, in which Sheikh Abdullah, the present Prime Minister of Kashmir, was a tool. "How else", it is asked, "could the Indian Army have been flown to Srinagar on the very day Lord Mountbatten accepted the accession, namely 27 October 1947 ?" The Prime Minister of India broadcast or otherwise published the full facts of the case at the time. Let me read out the salient portions of what said ;

> "It was on the 24th night"—that is, on 24 October—"that for the first time a request was made to us on behalf of the Kashmir State for accession and military help. On the 25th morning we considered this in the Defence Committee but no decision was taken about sending troops in view of the obvious difficulties of the undertaking. On the 26th morning we again considered this matter. The situation was even more critical then. The raiders had sacked several towns and had destroyed the great power house at Mahoora which supplies electricity to the whole of Kashmir. They were on the point of entering the Valley. The fate of Srinagar and the whole of Kashmir hung in the balance.
>
> "We received urgent messages for aid not only from the Maharaja's Government but from representatives of the people, notably that great leader of Kashmir, Sheikh Mohammed Abdullah, the President of the National Conference. Both the Kashmir Government and the National Conference pressed us to accept the accession

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of Kashmir to the Indian Union. We decided to accept this accession and to send troops by air, but we made a condition that the accession would have to be considered by the people of Kashmir later when peace and order were established. It was for them ultimately to decide."

The following is a very important part of this quotation :

"Had we desired a pretext either for Kashmir's accession or for sending our troops there, we should not have waited to accomplish our purpose until half of the Valley of Kashmir and parts of Jammu Province had been given to fire and sword and Srinagar itself was in peril of capture by the raiders, with all its horrors.

"We decided to send troops on the afternoon of 26 October. Srinagar was in peril and the situation was urgent and critical. Our staff worked hard that day and night, and at daybreak on the 27th our troops went by air. They were small in numbers to begin with"—no one at the time knew how few they were—"but immediately on arrival they rushed into action to stop the invader. Their gallant commander, a brave officer of our Army, was killed the next day."

The Security Council will thus see that there was no actual despatch of troops until after the accession, although we had been receiving S.O.S. messages for two or three days before. Even as it was, the Indian Army was just too late to prevent the terrible outrage by the raiders on 26 October upon St. Joseph's Convent and the attached hospital at Baramula. The members of the Council will find all the details in my two speeches of last year. I need not repeat them. One of the most distinguished and gallant officers in the Kashmir campaign on the Indian side was the muslim Brigadier Osman, who was unfortunately killed in action. This is the Hindu conspiracy which the Council, thousands of miles away from the facts, is asked to believe.

About Sheikh Abdullah's being a tool in this conspiracy, let me give a few more facts. Sheikh Abdullah was released

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from prison on 29 September 1947. He had been fighting the Maharaja's Government until then. The representative of Pakistan has said that Sheikh Abdullah wrote from prison a letter praying to the Maharaja that he should declare his accession to India forthwith. The letter is said to have been written to a friend; that friend apparently communicated it to one Prem Nath Bazaz who, it is said, has disclosed the fact in a book on Kashmir. Instead of this double hearsay, let us have more direct evidence. On 10 October, 1947 there appeared in *The Statesman*, a British-conducted paper, an account of a reception given in New Delhi to Sheikh Abdullah about a week after his release. I shall read the account of the proceedings :

> "New Delhi, Tuesday—Speaking at a reception today Skeikh Mohammed Abdullah, the Kashmir nationalist leader, pleaded for time to consider which Dominion the State should join, 'In the meantime,' he said, 'our friends could help us to attain our freedum from autocracy.' The Kashmir leader stated that depite the opposition of the Legaue"—that is the Moslem League—"to the popular demand for self-government implicit in the 'Quit Kashmir campaign, the attitude of his party would not be governed by passion. He believed in facing issues unemotionally and unsentimentally and in weighing consequences before taking a decision. Only the good of the people of the State would count".

Now comes an important sentence :

> "He asserted that he would not brook dictation from Pakistan or coercion from India. Their first concern, he repeated, was attainment of self-government so that the people, armed with authority and responsibility, could decide for themselves where their interests lay."

This was shortly before 10 October 1947—that is to say, nearly a fortnight before the invasion of Kashmir by the tribesmen. On 27 October 1947, shortly after the invasion, Sheikh

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Abdullah made another statement published in the *Times of India* on 28 October 1947. This is what he then said.

> "New Delhi, October 27th —Kashmir is in dire peril, and the first duty of every Kashmiri is to defend his motherland against the intruder', declared Sheikh Abdullah, the Kashmir leader.
>
> "The "invasion" of Kashmir is meant to coerce and compel the people of Kashmir to act in a particular way, namely, to accede to Pakistan', Sheikh Abdullah says. 'Every Kashmiri resents this compulsion on his will'."

I will not weary the Council with further quotations from the Press of that time. It is clear from what I have already quoted that what happend was that, while the Kashmir Government and Sheikh Abdullah were considering the question of accession, the invasion was planned for the purpose of compelling them by force to accede to Pakistan once and for all, without any reference to the people at any stage. That effort failed —in fact it had the reverse effect—and it is only since then that Pakistan has been speaking of the will of the people.

Why was Sheikh Abdullah chosen by the Maharaja to form an interim government to work with the Prime Minister at this crisis ? Let me quote from *The Times* of London of 7 November 1947 :

> "London, November 7th — In spite of the proximity of the raiders and comparatively heavy fighting four and a half miles west of Srinagar, Srinagar remained clam and business continued as usual. The situation is quite unreal and can be explained only by the fact that the head of the administration, Sheikh Abdullah, and his National Conference followers have contrived to instil confidence into the citizens."

It was because Sheikh Abdullah was able to command the confidence of the citizens that he was chosen. All these facts are well known in India and Kashmir; it is only at Lake

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Success that fantastic theories are put forward for the consumption of members of the Council far away both in time and space from the relevant events.

Let me turn to another point. India has been repeatedly accused of not fulfilling or wishing to fulfil its obligations under the resolutions of 13 August 1948 and 5 January 1949 [*S./1100 S/1196*]. I should like to invite the attention of the Council to the first step towards a truce agreement contained in the first of these resolutions.

I am reading from part II of the resolution dealing with the truce agreement. Part II opens with a paragraph running thus :

> "Simultaneouly with the acceptance of the proposal for the immediate cessation of hostilities as outlined in part I, both governments"—that is to say, the Governments of India and Pakistan—"accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission."

Then follows the first step :

> "A. 1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State."

I ask what the Government of Pakistan has done towards the fulfilment of this first and primary obligation. Why are Pakistan troops still kept within the State ? The representative of Pakistan has tried to make out that the Pakistan Army went into Kashmir on 8 May to defend the vital interests of of Pakistan, that is to say in self defence, and incidentally, to turn away the wrath of the invading tribesmen in case Pakistan did not give them assistance in a more direct from against the Indian Army.

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I drew attention last year to Article 51 of the Charter. Let me draw attention to once again. Under that Article, the right of self-defence begins only when there is an armed attack against a Member. In the present case there was never an armed attack against Pakistan by the Indian Army. Secondly under that Article measures taken by Members in the exercise of self-defence must be immediately reported to the Security Council. Pakistan did not inform the Security Council; indeed, it was only after the United Nations Commission for India and Pakistan arrived on the sub-continent, nearly two months later, and the facts could no longer be concealed, that the Commission was informed of the presence in the State of regular Pakistan troops. Thirdly, and this is very important, under the Charter the right of self-defence continues only until the Security Council has taken measures necessary to maintain international peace and security.

In the present case the Security Council, through the united Nations Commission for India and Pakistan, took the necessary measures, and in fact the Commission succeeded in getting the parties to agree to the two resolutions which I have already mentioned. Under these resolutions a cease-fire has been achieved, a cease fire line has been demarcated, and there are military observers to supervise the observance of the cease-fire order. None of the alleged grounds on which the Pakistan Army marched into Kashmir in May 1948 have any longer any validity. The line which that army was meant to hold, and more than that line, is now secured under the cease-fire arrangements already imposed.

What, then, is the need or the justification for the continued presence of the Pakistan Army in the State? Why is it not withdrawn? Why is not even a beginning made towards its withdrawal? Let us contrast this action with the step which the Government of India has already taken towards reducing its forces in the State. Members of the Council will notice that this is the third step in part II of the resolution of 13 Augnst 1948, the first two steps being the withdrawal of the Pakistan Army and the withdrawal of tribesmen and the Pakistan nationals that entered the State for the purpose of fighting. Let

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me refresh the memory of members of this Council by reading paragraph 1 of Section B of part II of the resolution of 13 August.

This paragraph runs :

> "When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A, 2, hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further that the Pakistan forces are being withdrawn from the State Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission."

It will thus be seen that the Government of India has already started the implementation of the third step. United Nations observers are well aware of this fact. But has there been any reduction on the Pakistan side ? Is Pakistan willing to begin and to continue the withdrawal of its forces from the State ? The representative of Pakistan has avoided saying anything on these points. Nevertheless, as usual, it is India that is accused of refusing to fulfil its obligations.

My esteemed friend from Pakistan has tried to play down Sir Owen Dixon's observations regarding violation of international law, first by the raiders and then by the Pakistan Army, and has emphasized Sir Owen Dixon's criticism that India was not likely to agree to any form of demilitarization or any plebiscite plan which in his—that is, in Sir Owen Dixon's—view was necessary for a free and impartial plebiscite.

I have already, in my first intervention [*533rd meeting*], pointed out that India agreed to all the provisions for ensuring a free plebiscite contained in the resolution of 5 January 1949. Pakistan also agreed to them; presumably therefore they were sufficient even in Pakistan's view at that time to ensure a free and impartial plebiscite. If India is now asked for further con-

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cessions, such as the complete removal of the Indian Army regardless of considerations of security and the supplanting of the lawful Government of Jammu and Kashmir, India must necessarily demur. The effect of this would be not to ensure a fair plebiscite but the reverse. With all due respect to Sir Owen Dixon—and I may say at this stage that my government fully acknowledges the spirit in which he worked—he appears not to have appreciated India's point of view. At no time was it suggested on behalf of India that members of the Indian Army or the State forces or the State militia should roam about the State armed during the plebiscite period. India's objection was not to a reduction of forces nor to their disposal within the State during the plebiscite period in such a way as to prevent their interference with the freedom of the vote, but to their reduction on a scale that would endanger the security of the State, as also to measures which would unnecessarily infringe the sovereignty of the State. While striving to elimate undue influeuce, Sir Owen Dixon forgot to take into account the subtle but potent psychological effect which is bound to result from the removal of the lawful forces and authorities in the State, guaranteed by previous agreements and assurances, and from the recognition, directly or indirectly, of the unlawful forces and the unlawful local authorities in various parts of the State.

But apart from all this, Pakistan does not emerge quite so unscathed from Sir Owen Dixon's report as my esteemed friend tries to make out. He has attempted to explain away Sir Owen's view about Pakistan's violation of international law as intended merely to justify the proposal that the first stage in demilitarization should consist in the withdrawal of the Pakistan regular forces. This, however. did not require any new justification; the proposal—with a reason for it—is part of the resolution of the United Nations Commission of 13 August 1948, which I have already read out. Sir Owen's view cannot therefore be dismissed in so cavalier a fashion. There is, however, something more. I quote from his report [*S/1791, para 74*] :

> "The stand adopted by the Prime Minister of Pakistan bad led me to the conclusion that there no longer existed

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any possibility of my bringing the parties to any composition of the dispute over the State of Jammu and Kashmir."

My friend from Pakistan has again referred to Junagadh and Hyderabad. We are at present concerned only with the Kashmir case, I shall therefore only repeat what I said last year on these other issues, although they are obviously irrelevant to the present discussion [*466th meeting*] :

"One thing has emerged clearly even from the extracts which my distinguished friend has quoted from various statements made by the Prime Minister and the Deputy Prime Minister of India, which is that in every disputed case there should be a reference to the will of the people. That is the criterion which subject to certain conditions as to the restoration of normal conditions, India has offered to apply in Kashmir. There is, however, one fundamental difference between the cases of Hyderabad and Junagadh, on the one hand, and Kashmir, on the other. In Kashmir, as I have already stated in my original speech, a large section of the Muslims—that is to say, a large section of the majority community—are themselves in favour of remaining in India. This is not India's fault; it is a plain fact, for which I have already tried to give several reasons. In Hyderabad and Junagadh, on the other hand, so far as I am aware, no section of the population that forms the majority has even been in favour of acceding to Pakistan. This is a fundamental difference which is apt to be forgotten in these facile analogies."

I shall now turn to a matter which appears to have caused some concern to certain members of the Council, namely the proposal to convene a constituent assembly for Kashmir. As I have already said, Kashmir is at present a unit of the Indian Federation and has to be governed accordingly. When we were drafting a constitution for India, we had to consider what provision should be made for the constitutions of the various units of the Indian Federation. It was decided that the framing of these constitution should be entrusted to a constituent assembly for the unit concerned. Accor-

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dingly, several units convoked constituent assemblies for the purpose, for example, Saurashtra, Travancore-Cochin and Mysore. Others lagged behind for one reason or another, Kashmir is one of the units where a constituent assembly has not yet been convoked, so that the constitution of the State is still to be made. Members will please note that the machinery of a constituent assembly was not devised only for Kashmir, but for other similar units of the Indian Federation as well. Indeed, it is recognized machinery for the framing of the constitution in most parts of the world. Accordingly, provision was made in the Indian Constitution for a constituent assembly for setting the details of the Kashmir constitution. Will that assembly decide the question of accession? My government's view is that, while the constituent assembly may, if it so desires, express an opinion on this question, it can take no d cision on it.

The representative of Pakistan has said at one point of his speech that the occupation of Kashmir by India is a threat to the existence of Pakisian, since India thereby aims not only to encircle Pakistan strategically but also to have its economy at its mercy by control over the rivers which are the life-blood of Pakistan. I confess I do not quite understand this point. If as the result of a plebiscite, Kashmir goes to Pakistan, the question does not arise; the question can only arise if Kashmir decided to remain in India. Does my esteemed friend mean that even if the plebiscite should result in favour of India, Kashmir should be allccated to Pakistan on the grounds he has mentioned ?

If Pakistan has any apprehensions regarding the supply of water from the river-system of the State, my government will have no difficulty in giving suitable assurances. After all, there are rivers in other parts of the world flowing through more than one State, and there are well-established ways of regulating the use of these waters.

My friend has asked whether India agrees to the principle of having United Nations forces in Kashmir. I have aiready stated India's position in this matter and given our reasons for it; first, we are wholly unable to accept any entry of foreign troops in the State or in any other part of India; secondly, in view of

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the provision made by the resolutions of August 1948 and January 1949, there is occasion for the use of foreign troops or of special local levies recruited by an outside agency.

My friend has also referred to the principle of arbitration. Here again India has already explained its position on more than one occasion, namely that under the guise of arbitration issues which have already been closed by the resolutions of August 1948 and January 1949 and by the assurances given to India by the United Nations Commissions cannot be reopened.

The representative of Pakistan has spoken of what he describes as India's aggression in Asia. I do not know if this statement is intended to be taken seriously by this Council. Strange, indeed, are the mutations of language as we have heard it used here. It is aggression if one goes to repel an invader; it is not aggression to give full help and succour to the invader. It is aggression if, after halting the invasion, the protecting forces are voluntarily reduced by from 20 per cent to 25 per cent; it is not aggression if the forces joining in the invasion, in breach of international law, continue to remain on the soil which they have violated and to consolidate their unlawful hold. It is aggression if it is proposed to set up a constituent assembly of the people; it is not a threat of aggression if there is a constant preaching of *jehad*, or holy war, and the systematic incitment of feelings of religious frenzy and hatred.

I find no pleasure in participating in these annual contests. We all desire a peaceful solution of this problem, but a peaceful solution needs a proper atmosphere. When a sub-continent which had grown up as a single economic and political entity for centuries, as India had, is suddenly split into two separate States, a host of complex problems is bound to arise. What was previously a domestic question is suddenly thrust into the international arena and discussed in a world forum.

I remember the time when Burma was a part of India; it was separated in 1936. But experts sat from, I believe, 1931 and worked at the problems that were likely to arise from the separation, and only after solutions had been found for most, if not all of them, was the separation effected. In the case of Pakistan,

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the partition was effected in about ten weeks. Necessarily, a number of complex questions remained unsolved. And then, owing to outbreaks of communal feeling and other causes, the atmosphere for their peaceful and successful solution was destroyed.

I mention these facts so that members of the Council may realize that. if there are still unsolved disputes between India and Pakistan, the reason is to be found largely in the circumstances of the partition. Time and patent efforts are required for their solution, and I trust I have said nothing to retard that solution.

132. *Text of the speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council meeting No. 536 held on 9 March, 1951.*

Some of the points raised by the representative of India call for a reply, not so much from the point of view that they are in controversy and a reply could in itself settle the controversy—the controversy is there, and that is why the Security Council is engaged in the discussion of this problem—but because, if further explanation of them were not submitted, the issue might be confused. On some points I shall be quite brief, because my main object is not merely to make debating points but to clarify the issues with which the Council has to deal and which it is called upon to decide and dispose of. On one or two points I shall be compelled to draw the Council's attention to the relevant documents so that it may have a full view of the situation.

With regard to the first point raised by the representative of India as to whether the Maharaja's letter of 26 October addressed to Lord Mountbatten offering accession to India was or was not the culmination of a conspiracy, the representative of India has submitted two main points for consideration. One is the official account given by the Prime Minister of India of what happened after the night of 24 October 1947, when the first request from the Maharaja for armed assistance was received. I have no means of controverting that account, and I do not desire to controvert it; but it is what had gone on before,

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and had brought about that request, which would show whether there was or was not a conspiracy.

I have cited the visits of Congress Leaders to the Maharaja, including the visit of Mahatma Gandhi, during the crucial period. What were they discussing ?

With regard to Sheikh Abdullah's position, it was said, in the extract I read out from Mr. Bazaz' statement that the alleged writing of the letter by Sheikh Abdullah to a friend in Jammu, which Mr. Bazaz has stated was published in the Congress papers, is sought to be made out to be improbable, owing to what Sheikh Abdullah had stated on one or two occasions in New Delhi after his release from jail. Sheikh Abdullah was released from jail on 29 September. He went straight to New Delhi. He remained in New Delhi either throughout the period intervening between his release and the Maharaja's letter of 26 October 1947 intimating to Lord Mountbatten that the Maharaja was willing to associate Sheikh Abdullah with the administration at the stage, or at least during the crucial period. He was in New Delhi on 21 October, because a reception was given to him. On that date there was another reception, but at any rate a Press statement was made by him from which I have quoted on previous occasions. He certainly was there on 27 October because the representative of India has himself referred to his being in New Delhi on 27 October.

What was he doing there ? The representative of India says, and he has put it in quotations, that Sheikh Abdullah was at that time pleading for time to consider which Dominion the State should join. He is in New Delhi, on 9 October—and he is a great friend of the Prime Minister of India—pleading for time to consider which Dominion the State should join. With whom was he pleading ? He was pleading with the authorities in New Delhi. Why was he pleading ? Because they were exerting pressure to make Kashmir accede to India. Otherwise, what is the explanation ? He was not pleading with Pakistan in New Delhi. He was in New Delhi pleading for time to consider which Domintion the State should join, because time was not being granted, because pressure was being exerted to cause Kashmir to accede India.

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Very well. He remains in New Delhi. Here is a man who had been in jail, as I have said. It was an honourable incarceration; I am not objecting to his having been in jail. He was honourably there on account of his struggle on behalf of the people of Kashmir. Whatever his views were, he was certainly not *persona grata* with the Maharaja. He is released and he goes straight to New Delhi. The Maharaja, when asking for armed assistance, mentions—obviously as a factor which would be welcome to the Government of India in New Delhi—that he has decided to associate Sheikh Abdullah with the administration. Where has the suggestion come from? Where was Sheikh Abdullah? The Maharaja had not talked with Sheikh Abdullah after his incarceration and he had no means of gauging, through Sheikh Abdullah or anyone else, whether Sheikh Abdullah would be able to bring to bear a steadying influence on the people in Kashmir.

Sheikh Abdullah was in New Delhi pleading for time, and the Maharaja states in his letter that he is willing to associate Sheikh Abdullah with the administration and Lord Mountbatten says "we note it with satisfaction". The situation is obvious. Sheikh Abdullah was the go-between, and the go-between was mentioned in the document when it was ultimately presented to Lord Mountbatten. Sheikh Abdullah's price, or his prize, was also mentioned in the document.

Then, with regard to the troops it was said "we did not come to any decision to send the troops until sometime on the 26th", and the troops were there on the 27th. But, it was said, the number was small, fortunately it was not known how small. Yet their number was large enough to enable them to go into action immediately and to stop the further advance of this serious threat that was endangering, according to them, the security of the State. How could an airborne operation of that kind have been carried out if, as has been alleged by the representative of India, the directions to the military authorities did not emanate from the civilian government until sometime during the night of the 26th, and the troops were there in the State the early morning of the 27th, unless all the preparations had already been made? The facts speak for themselves.

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However, as I have said, if we were to spend our time in merely trying to determine whether that was or was not possible, it would not take us any further forward. The facts are too strong for the representative of India to get over.

Sheikh Abdullah was acting as a go-between ; he was *persona grata* with the Prime Minister of India. He was not *persona grata* with the Maharaja. He was pleading with India for time on the question of accession. India was putting pressure. He had been selected to act between the two, and he emerged as being associated with the Prime Minister of Kashmir in the administration of the State, and subsequently became Prime Minister. I have said, facts speak for themselves.

The representative of India went on to the merits of the question, and I am glad he did so. Look at the resolution, he said. India is being blamed for not doing its part under the resolution. Has Pakistan carried out its part ? He then chose to read out certain portions of part II of the resolution of 13 August 1948. He left out the governing paragraph ; he may not have done so deliberately, but he did leave it out, and that would make all the difference. I venture to invite the attention of the Council to the whole of part II so that representatives may have fresh in their minds the obligations of the two parties. The heading is "Truce agreement". It reads as follows :

> "Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in part I, both governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between the representatives and the Commission."

I emphasize this. This part relates to the formulation of a true agreement. An agreement will be formulated on the basis of the following principles ; the details will then be worked out between representatives of the two governments and the Commission ; and then the implementation of that agreement will start. Obviously, that is what it means. What were the obligations ? When drawing up a document, things have to

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be put in some sort of order, but as a whole the document will show what were the obligations to be undertaken as a matter of principle, and once the truce agreement was drawn up and the details settled, implementation must start in accordance with the agreement. I continue with the quotation, as follows :

> "A. 1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State."

When we accepted this resolution we agreed to do that. We have never repudiated this agreement. We have at all times been ready to carry it out. It is not correct to state that we have at any time put in doubt either our acceptance or our readiness to carry out the agreement that we have undertaken. But the representative of India asks whether we have withdrawn our troops. I shall first deal with the resolution and answer that later.

The resolution continues :

> "2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.
>
> "3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.
>
> "B. 1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the

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Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission."

I shall stop here because these are the only paragraphs that relate to the withdrawal of troops. They lay down that after the cease-fire and the cessation of hostilities, there shall be formulated a truce agreement based upon these principles, the details of which will be settled between the representatives of the two governments and the Commission. The two governments having accepted this, and the cease-fire having become effective as of 1 January 1949, the Commission, after its arrival on the sub-continent on that occasion, called the representatives of the parties together to formulate the truce agreement. This metting took place on 7 March 1949 in New Delhi. The Commission said, now we must proceed to formulate the truce agreement. The mnin thing for the truce agreement is to settle this question of the withdrawal of tribesmen and Pakistan nationals who have entered the State for the purpose of fighting, and of the Pakistan Arm ', on the *Azad* Kashmir side, and of the bulk of the Indian Army, on the other side. Have the parties got any scheme, the Commission asked, for the withdrawal of what they have undertaken to withdraw? Pakistan's representatives were asked whether they had any scheme. They said : Yes, we can formulate one and on the understanding mentioned by the Commission that, after Pakistan had put its scheme on the table, India would put its scheme on the table for the withdrawal of the bulk of its forces, the Pakistan representatives produced their scheme and put it on the table on 9 March. This happened in New Delhi. This was the beginning of the process of the formulation of the truce agreement.

The representatives of India were then asked when they could produce their scheme in accordance with the understanding that they would do so once Pakistan had done it. I believe, although I have not checked the dates, that they said they would do it the next day. They did not produce it the next day on the ground—it may have been valid or only a pretext;

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it is not necessary to go into that here—that either the Prime Minister was not in New Delhi or that the Commander-in-Chief was not in New Delhi. These excuses were put forward, but in what order I have not been able to check. Time was taken first on one ground, then on another. Days passed. The Commission found India not willing to produce a scheme for withdrawal, and therefore no progress could be made on the formulation of the truce agreement. And that is where the matter remained.

We understand from the report of the Commission that later on, at some stage, the Government of India submitted to the Commission some scheme of withdrawal, but with the condition that it was not to be communicated to Pakistan; and, as a matter of fact, up to now, in spite of the fact that the Commission submitted reports to the Security Council, I believe I am correet in stating that India's scheme has not been communicated even to the Security Council.

How could the Truce Agreement be formulated ? Who held up the formulation ? Was it Pakistan who refused to go forward ? The following is what the Commission has said, as I read it out to the Security Council when I had the honour of addressing it the other day.

According to paragraph 245 of the third interim report, "...India is not prepared to witadraw such part of its forces in Kashmir as might be characterized as the 'bulk', whether measured quantitatively or qualitatively, unless agreement with Pakistan on the large scale disbanding and disarming of the *Azad* forces is reached". Where is the mention of *Azad* forces in any of the paragraphs of part II of the agreement ? The *Azad* forces do not come in until the plebiscite, when the plebiscite Administration would have the power of final disposal of the remaining forces on both sides. In any case, that is a point which I went into the other day when trying to elucidate the situation. That is where the matter got struck. Once the truce agreement had been formulated and the details agreed upon, our undertaking was, first of all, to persuade the tribesmen to withdraw and to arrange for the withdrawal of

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the Pakistan nationals who had gone in for the purpose of fighting as volunteers. Then, in accordance with the scheme that might be agreed upon, we were to begin the withdrawal of our forces, and the withdrawal was then to proceed in synchronized fashion on both sides until the whole was achieved. All this was to be done once the agreement was formulated; and India did not agree to formulate it. What were we to do? What is it that India suggests Pakistan should have done and has not done? That it had to be a synchronized withdrawal was perfectly clear to the Commission. In its clarification of the resolution of 13 August 1948, set forth in the appendix to annex 27 of document S/1100, the Commission said in paragraph 10:

> "In accordance with part II, B, 1, of the resolution, in the Indian Government, when apprised that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed upon with the Commission. Synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission."

How can you start with withdrawal, particularly a Synchronized withdrawal, until the arrangement has been settled between the parties with the assistance of the Commission? The representative of India asked: What has Pakistan done? Pakistan, in spite of the fact that India refused to go forward with the Commission for the purpose of the formulation of a truce agreement, succeeded in persuading the tribesmen to withdraw and has withdrawn the Pakistan volunteers who had entered the State for the purpose of fighting. It has, in spite of India's refusal to proceed with the formulation of the agreement, performed a part of its obligations. The withdrawal of regular forces cannot be begun until the formulation of the agreement has been agreed upon. The latest attempt in this regard was made by Sir Owen Dixon. Sir Owen Dixon suggested a method of withdrawal of forces, that is to say, he

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suggested that Pakistan should begin to withdraw its troops on a specified date : after the lapse of a significant number of days. India should start, and thereafter, a synchronized process of withdrawal should continue until the agreement was actually implemented.

We said that we were willing to do so. The Prime Minister of Pakistan's willingness to do that, in spite of her objection to the assumption that Sir Owen Dixon was prepared to make with regard to the entry of tribesmen and of Pakistan forces, and our unqualified acceptance of the scheme is there in black and white in Sir Owen Dixon's report, and has been read out.

The principal reason which the representative of India gave as to why India did not accept Sir Owen Dixon's proposal—and I am not trying to say here that we have at any time been in default, the default having been on India's side—was that Sir Owen insisted on the complete withdrawal of the whole of the Indian forces. Even this in itself is not correct, since Sir Owen had made provision or was prepared to make provision for small forces to remain at strategic points in certain places. That is neither here nor there. The question is this : What was our obligation ? Our obligation was first to accept these principles. We accepted them. Secondly, it was our obligation to co-operate in the formulation of a truce agreement. We were invited to put our proposals on the table, and we did so. But the next step could not be taken because India refused to do so. Where have we failed ?

Again, the representative of India has said that the Government of India has already taken steps to reduce the number of its troops, and he asked. "Has Pakistan reduced the number of its troops ? " In fact Pakistan has, but again the question is not whether or not India, on it own has, carried out a reduction in the number of its troops, or whether or not Pakistan, on its own, has carried out a reduction in the number of its troops. That is not part of the obligation. Here the reduction must take place in pursuance of a truce agreement which has first to be settled, and must amount to a complete implementation of that agreement.

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How has India reduced to the number of its troops ? As I said the other day, in spite of whatever reduction may have taken place, India still has in the State of Kashmir many times the number of troops that Pakistan has in the *Azad* Kashmir area. So what actual difference has it made to the situation ? The sole point is this : Why has the deadlock occurred ? Because, at each step and at every stage, India has obstructed and has refused to carry out the obligation it had undertaken, and that is where the difficulty arose. India would not permit the formulation of the truce agreement to go forward.

Then the representative of India asked : Is Pakistan willng to start the withdrawal and to continue it ?" Pakistan has at all times been ready to go forward with the complete implementation of what it had undertaken to do. As soon as the truce agreement has been formulated, Pakistan will at once start doing whatever that agreement requires it to do. Once the truce agreement has been formulated, Pakistan will of course, as it has undertaken to do, start the withdrawal. We have never raised any objection to it. We have repeatedly affirmed our willingness our readiness and our eagerness to go forward with the formulation of the truce agreement so that the withdrawal could begin; and, of course, the obligation is, as the agreement will no doubt state, that we should begin the withdrawal which, in its later stages, will be synchronized.

The representative of India quoted today from paragraph 74 of Sir Owen Dixon's report. He said that Pakistan did not emerge "unscathed"—I believe that was his expression—from that report. Whether we did or did not is a different matter, but the passage which the representative of India quoted to the Security Council in that connexion has nothing whatsoever to do with the demilitarization of the State or the obligations undertaken by the parties, or with the question of going forward with the organizing and holding of the plebiscite. The passage he quoted appears, as I say, in paragraph 74 of the report. However, paragraph 52 of the report concludes the matter of the efforts of Sir Owen Dixon to go forward with the implementation of the agreement, and this is the conclusion he reached :

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> "In the end I became convinced that India's agreement would never be obtained to demilitarization in any such form, or to provisions governing the period of the plebiscite of any such character, as would in my opinion permit of the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled."

Sir Owen then said, in paragraph 53 :

> "Having come to this conclusion I thought that I must either abandon all attempt to settle the dispute or turn from the plebiscite by which the destination of the whole State would be decided to some different solution."

The rest of the report is concerned with the efforts which Sir Owen made in that direction and in that connexion, and his observations with regard thereto. Even there, what he refers to is the fact that he first proposed one thing to one side and then the same thing to the other side, and that on one occasion the Pakistan reaction was against it and on another occasion the Indian reaction was against it. Ultimately, however, he obtained Pakistan's acceptance of his suggession—and that was, again, the end of that stage—that both Pakistan and India should go into conference with him, Sir Owen, to discuss and consider an alternative scheme that he would elaborate, provided the parties accepted certain basic outstanding considerations. Pakistan accepted, India refused, and that is where the whole thing came to a stop.

Even if, in the process of trying to persuade India and Pakistan that they should be prepared to go into conference to discuss and consider some alternative proposal once he found that the over-all plebiscite could not be undertaken owing to India's intransigence and obstruction, Sir Owen found that one side expressed its willingness to go forward while the other did not, the Council cannot be invited to draw the conclusion from that one side was not discharging or prepared to discharge its obligation.

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The representative of India went on to say that I had referred to Junagadh and Hyderabad, and he said that those matters were irrelevant to the issue before us. How are those two matters irrelevant to the issue before us? In the first place, merely from the point of view of technical relevancy, both these problems are before the Security Council. The Junagadh problem is before the Council as part of this Indo-Pakistan dispute which is on the agenda even today, although we are at the moment only discussing Kashmir. Hyderabad is before the Security Council although it is on the agenda on a different basis. But apart from the question of technical relevancy, I have cited those two instances in order—If I may, with all respect, employ a common saying—to show that what is sauce for the goose is sauce for the gander.

There, too, the question of accession was involved; there, too, the question of a Ruler belonging to one community and the majority of the population belonging to another community was involved; there, too, the parties desired accession to India or to Pakistan. Those two cases are illustrations showing how India interprets the application of certain principles where a Ruler belongs to one community and the majority of the population to the other and the question of accession is in dispute.

What does India say? India says, with regard to Junagadh, that the issue must be decided according to the will of the people. Very well. How is the will of the people to be ascertained? When the majority of the population of a State are non-Muslims and the Ruler is a Muslim, how is the question of accession to be decided? By plebiscite. Very well. "But", says India, "a plebiscite must be held under the joint control of the Government of India and the government of that State". Reverse the case. Take a State where the majority of the population are Muslim, where the Ruler is a non-Muslim and where the issue of accession is in dispute. How is the issue to be decided? Through a plebiscite. How is the plebiscite to be organized? Under the control of the Government of India and the government of that State. Thus, each time, it must be the Government of India. Whether the Ruler is a Muslim or a

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non-Muslim, whether the majority of the population are Muslims or non-Muslims, the plebiscite must be held under the auspices of the Government of India and of the government of the State concerned. Pakistan does not come into the issue at all. How is this irrelevant ?

The representative of India said that there was a distinction. The distinction is this. Large sections of the Muslims in Kashmir are in favour of accession to India. There is, I believe, an expression, "begging the question." But that, in itself, is the question—whether they are or whether they are not in favour of accession to India. I suppose the Security Council is invited to determine even these pending matters on the assumption that a large part of the Muslims in Kashmir are in favour of accession to India. Then why go on with the question ? It is that which has to be ascertained.

But, assuming that India is of that view, how does it affect the main question so as to permit India not to withdraw its military forces when the plebiscite is being held. If large sections of the people of Junagadh, who are non-Muslims, are not first shown to be in favour of accession to Pakistan then, in Junagadh, the plebiscite must be held with the Indian Army present. But if large sections of the population of Kashmir are assumed by India to be in favour of accession to India, the plebiscite must still be held in the presence of Indian troops. Is that the argument ? But the presence of troops is the very negation of fairness and impartiality of a plebiscite. They must go out. Pakistan troops must go out from wherever they are in the *Azad* Kashmir area. Indian troops must go out from wherever they are in occupation in Kashmir. That is necessary in order to enable the people freely to express their wishes on this question of accession.

How is that principle modified each time in favour of India, whether the majority of the population is Muslim or non-Muslim ? By begging the question through the assertion that large sections of the population of Kashmir are in favour of accession to India. Why did not India put it to the test ? What is India afraid of if that is so ?

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Then it is said, "Oh, but the forces of India are lawfully there. The forces of Pakistan are unlawfully in the *Azad* Kashmir area". That, again, is begging the question. They are lawfully there if Kashmir has lawfully acceded to India. India itself has repeatedly preached and tried to convert Pakistan to the view that where the question of accession is in dispute, it is only the will of the people that can determine the question one way or another. As a matter of fact, India's stand has been—it has been quoted before, but it can be quoted now, and the reference can be given—that once the suzerainty of the British over these princely States had been withdrawn or had come to an end, sovereignty passed not to the Rulers but to the people. All right, its sovereignty did not pass to the Maharaja, then who acceded and where is the question of legality and law-fulness ? But assume, for the sake of argument, that it was lawful. In his telegram of 8 November, Pandit Nehru says :

> "It will thus be seen that our proposals which we have repeatedly stated are : ..... 2. That the Government of India should repeat its declaration that it will withdraw its troops from Kashmir soil as soon as the raiders are withdrawn and law and order are restored."

Did he think that Indian troops were unlawfully there ? He claims that his forces are lawfully there, and yet he says that once the raiders have withdrawn and law and order are restored "we shall withdraw our forces". Why ? Because he is replying to the point that you cannot hold a fair and impartial plebiscite so long as troops are there. He says : "You persuade the tribesmen to get out, and we shall withdraw our troops once the tribesmen have left." It is said, then, that Pakistan troops are also in the *Azad* Kashmir area. All right, let them and the tribesmen withdraw and let the Indian troops withdraw.

The representative of India says that this—the removal of Indian troops—would have a psychological effect. He says that it would not make the plebiscite fair and impartial because it would have a psychological effect. Of course it would have a psychological effect. It would have the psychological effect

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of assuring the people that, whichever way they voted, they would not subsequently be persecuted. If you do not want to produce that psychological effect, why do you go on claiming that you want to hold a fair and impartial plebiscite ? That psychological effect must be produced : that no person in whatever position, however humble, however weak, however unprotected, will be subjected to any hardship or disadvantage, or will made to suffer any kind of harm by voting for one side or the other on the question of accession. The complete withdrawal of troops is a necessary preliminary for that purpose.

My learned friend again has contended throughout that the resolution did not contemplate complete withdrawal of Indian troops. I took a certain amount of the Security Council's time the other afternoon to show that the resolution left that matter to be determined by the Plebiscite Administrator. Under subparagraph 4 (*a*) of the resolution of 5 January 1949, he has the power of the final disposal of the troops that remain : the *Azad* Kashmir troops on one side, and the remnants of the Indian troops and the State forces and militia on the other. If he feels that he needs any protion of these troops in any area, he can retain those troops and get rid of the rest. He may ask the Indian forces, the States forces and militia, or the *Azad* Kashmir forces to disarm and disband. He reduces the forces to whatever he considers to be necessary, having due regard to the security of the State and the fairness of an impartial plebiscite. But that is his business and his responsibility. He may insist upon the complete withdrawal of the Indian forces ; he may insist upon the complete disbandment and disarmament of the State militia. He may do whatever he likes in the same manner with regard to the *Azad* Kashmir forces. But, according to the resolution, it is his duty.

However, assume that India is unwilling to agree to that interpretation, and we do not accept their interpretation. That is exactly the kind of thing that has to be determined by someone. As there is a difference of opinion over these interpretations, the correct one must be determined. The Commission has given explanations and clarifications. The representative of India insists that his interpretations must be taken into

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account. Of course they must be taken into account. The interpretation both of the language of the resolution and of the clarifications given to it by both sides must be determined as to what the parties did agree to do, and then the parties must be called upon to do it. That is the only way to proceed with the matter.

My learned friend said. "But Pakistan says that India's object in carrying out this aggression in Kashmir is to encircle Pakistan strategically and to destory Pakistan's economy". He posed this question : "Supposing, as a result of the plebiscite, it was found that a majority of the people wanted to accede to India. What then ? Will Pakistan still claim that Kashmir should accede to Pakistan for strategic and economic reasons ?

I went to some pains the other day to explain that although these factors are there—cultural, religious, geographic, economic, strategic ; communications, trade, commerce—and they all indicate that the natural relationship of Kashmir is with Pakistan, nevertheless, we have accepted and we abide by the agreement that the question of accession should be determined upon the basis of a free and impartial plebiscite, and whatever the result, we shall accept it.

The representative of India might argue, "In that case you will be encircled and your economy may be affected". That is true, and we take the risk. After all, disputes must somehow or other be settled on some fair and just basis. What we object to is the determination being made by force. India attempts to make that determination by force.

Kashmir is not, in any sense whatever, necessary either to the security of India or to the economy of India. It could help India only to encircle Pakistan and to destory its economy. When India proceeds by force to occupy Kashmir and refuses to go forward with the implementation of the agreement which alone can make a fair and just solution possible, then it is obvious that India is in Kashmir for the one purpose which Kashmir could serve if India continued in occupation.

The representative of India says, "Why have fears regading your economy ? An agreement can be arrived at with regard to

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the use of the waters of these rivers on the basis of international principles." I submit that the issue is wholly irrelevant. Assuming that it can be arrived at, is my friend suggesting that we should give up the question of Kashmir and that he will give us a portion of the rivers that flow through Kashmir ? Even there our experience is bitter. As I have stated to the Security Council previously, on 1 April 1948 India turned off the supply of waters that flow through India, and then later on through West Pakistan down into the Indus, which action threatened the ruin of the harvests, and ultimately the ruin of the greater part of West Punjab and the Sind. This action continued for about six weeks, and the supply of water was resumed only after Pakistan, and I am compelled to use the expression, was forced to sign an agreement which was extremely onerous to Pakistan. Even then the issue was not settled. Certain payments which India claimed, and to which we did not believe it was entitled, had to be deposited while the supply was continued.

Since that time certain developments have taken place. We have not continued with the arrangement that was then forced upon us. We stand on our rights, which were reserved under that agreement. The representative of India is a very eminent authority on this subject, having presided with great ability over a commission which was set up to deal with this question between two Indian provinces. As the representative of India has said, there are international principles for sharing these waters. We have repeatedly submitted to India that there are these principles. We have said : Let us take this dispute to the International Court of Justice and have it settled there. India has persistently refused to do so. It is one thing to go on saying that there are these international principles and that these matters can be settled through the judicial organs in which a determination can take place, but the whole record shows that whenever any suggestion of that kind is made, India turns it down.

The other day I read—and I need not repeat it in detail—an extract from a letter from the Prime Minister of Pakistan to the Prime Minister of India which stated that all the trouble between India and Pakistan continues because on no single issue

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will India agree to submit the matter to either arbitration or judicial determination, whereas Pakistan is prepared to do that with regard to every single issue in dispute between India and Pakistan.

With regard to proposals for arbitration of these matters, the representative of India has said. "We cannot accept arbitration because closed issues cannot be reopened". Who has suggested that they should be reopened ? We have not suggested it. The Commission did not suggest it. It was not suggested that the accession of the State of Jammu and Kashmir to Pakistan or to India should be submitted to arbitration. The suggestion is : as there is an international agreement embodied in the two resolutions of 13 August 1948 and 5 January 1949, and as the implementation of these resolutions has come to a standstill, the issues arising therefrom should be submitted to arbitration so that the arbitrators can determine what is to be done, and should call upon the parties to do it, or should at least proclaim to the Security Council what is to be done, and then the Council should call upon them to do it.

How would that lead to the reopening of issues that have been closed ? India might fear that Pakistan may attempt to reopen an issue that is closed. In such a case, the arbitrator will say. "This issue is closed : I will not arbitrate on that. I will arbitrate only on matters arising out of the agreement on which there is a difference". What is this excuse : "We shall not go to arbitration because closed issues might be reopened" ? The arbitrator will be there to exclude everything that has been settled, and to give his decision on the matters of difference which are holding up the implementation of the agreement.

The representative of India also put the point that there was no case for the use of foreign troops and that he could not agree to that, as the international agreement of 13 August 1948 and 5 January 1949 did not contemplate the use of foreign troops. Very well : let that agreement be implemented. Let us go forward on the basis of that. We are not refusing to do so ; it is India that is refusing to do so.

The representative of India says that I referred to Indian

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aggression in South Asia, and he took exception to that. However. that is not really an issue which is before the Council, and if it hurts the susceptibilities of the representative of India, and naturally it does, I am prepared to apologize to him for having used the expression. But he goes on to cite illustrations trying to show that what Pakistan did was aggression, while what India did was peaceful and non-violent. India took military possession of Junagadh, which had acceded to Pakistan. India took military possession of Hyderabad. India took military possession of Kashmir. From Indian soil, though I will not bring the Government of India into it, attempts have recently been made to undo the freedom and independence of a neighbouring independent State. That is peaceful, that is non-violent. If that is peace, if that is non-violence, the only area in the world today that is peaceful and non-violent is Korea.

The representative of India said that India had desired a peaceful settlement, but there was partition, which was carried into effect in a period of ten weeks, creating a host of problems and disputes. He said that the separation of Burma took five years, but this was done in ten weeks. So it was, but that is neither his fault nor Pakistan's. As a matter of fact, Pakistan actually pleaded for a little more time. As the result of partition, India was to carry on with a machine already in existence and in operation, and in many respects it was an extremely efficient machine. Pakistan was to start from scratch, and though India also may have desired more time and Pakistan certainly did, we were not given more time. I do not say it was India's fault. India may have suffered seriously as well. However, the partition was carried through and it has created problems and disputes, but what is the remedy that the representative of India suggests ?

He suggests that we should let things be and they will settle down. On the one hand, he goes on citing, as part of Pakistan's alleged aggression, all the agitation in Pakistan and all the talk—according to him—of *jehad* or holy war. Is that part of settling down ? Are things settling down ? It should be borne in mind that all the trouble centres upon Kashmir. As I said the

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other day, Kashmir is both the key to and the barometer of relations between Pakistan and India. Until that problem is settled, the atmosphere will not only continue to be explosive but, as time progresses, the maintenance of peace between the two, the maintenance of peace in Asia, and ultimately the maintenance of international peace, will be in serious jeopardy.

People have waited far too long. Here is a test whether this august international Organization, which the civilized conscience of the world has charged with the maintenance of international peace and with averting any threat to it, will find a speedy and effective way of resolving this extremely explosive situation, which might lead to anything almost at any time. The Prime Minister of Australia has recently referred to three big areas where danger threatens the peace of the world. He says that one is Europe, another is the Middle East, and the third is Kashmir. He puts it very mildly. The remedy, if it is to be effective, if it is to avert the dangers of which the situation is daily becoming fuller, if it is to be applied, must be adequate; it must be effective and it must be speedy.

133. *Text of the speech made by Sir Benegal N. Rau (India) in the Security Council meeting No. 538 held on 29 March 1951.*

I have carefully studied the revised draft resolution [*S/2017/Rev. 1*] and the speeches of its sponsors. I shall first say a few words on the question of Kashmir's accession to India, on which the representative of the United Kingdom has expressed himself [*537th meeting*] in language which is far from clear. I dealt with this matter last year, but, as Sir Gladwyn Jebb was not in the Council then, I shall repeat the substance of what I said.

Consider the Constitution which was in force in India between 15 August 1947 & 26 January 1950, which is the material period for this purpose, India was a Dominion under the British Crown. That Constitution was an enactment of the British Parliament. Under that Constitution, often referred to as the Government of India Act, 1935—as amended under the Indian

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Independence Act, 1947—an Indian State must be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an instrument of accession executed by the Ruler. That is all that is required for accession : an instrument executed by the Ruler and accepted by the Governor-General.

On 26 October 1947, in order to get India's help to repel an invasion of the State in which Pakistan was aiding, the Ruler of Kashmir actually executed such an instrument of accession in favour of India, and on 27 October 1947, Lord Mountbatten, then Governor-General of India, signified his acceptance of the instrument in the usual formula, "I do hereby accept this instrument of accession". The document itself contains no conditions or reservations of any kind; it is in the same form as any other instrument of accession accepted by the Governor-General of India, and it took effect from the moment of acceptance. Only, in the case of Kashmir, Lord Mountbatten, after accepting the instrument wrote a separate letter to the Maharaja or Ruler in which he expressed the wish of the Government of India that "as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of the State's accession should be settled by a reference to the people". In other words, the acceptance of accession was followed by the expression of a wish to be fulfilled at a future date when certain conditions had been satisfied. Unfortunately, the soil of Kashmir has not yet been cleared of the invader—the Pakistan Army which joined the invader is still there—and so the fulfilment of the wish of the Government of India has been delayed by Pakistan's own act. Meanwhile, the accession to India continues to be effective, and it will inevitably so continue unless and until the people of Kashmir settle the question otherwise.

Having delayed the plebiscite by an act of invasion, Pakistan cannot take advantage of its own wrong to hold up or suspend the legal consequences of the accession. There is nothing new or strange in this interpretation. It is the view which the United Nations Commission itself evidently took as early as 13 August 1948 [*S/1100*] in its resolution of that date which, I need hardly repeat, has been accepted by Pakistan as well as India. The

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Council will remember that under that resolution, Pakistan is to withdraw all its troops from the State, while India is to withdraw only the bulk of its troops. Why was this distinction made ? Clearly because the United Nations Commission recognized that while Pakistan had no right to have any troops in/the State, India by virtue of its responsibility for the defence of the State resulting from the accession, had the right and the duty to retain some troops in the State to ensure its security. There are other evidences of the same view elsewhere, but it is unnecessary to labour this point. The argument to the contrary is in effect only another attempt to reopen settled issues. Indeed, I am not sure that Sir Gladwyn Jebb does not contradict his own doubts for, in one part of his speech he wants the Government of India to take all possible steps to prevent the Kashmir Government from acting in a certain way in the State constituent assembly, while, almost immediately afterwords, he questions Kashmir's aceession to India surely if Kashmir has not acceded to India, the Government of India cannot, on his own view of the matter have any control over the Government of Kashmir. Even with accession, the control is limited; but without accession, what would be the foundation for the various obligations which Sir Gladwyn Jebb seeks to impose upon the Government of India with respect to Kashmir ? In one breach he demands all possible preventive steps from India and in the next he seems, to question the very basis for his demand.

This brings me to the subject of the constituent assembly which apparently continues to disturb some of the members of the Council. I have already explained may Government's views on this subject (536th meeting). Even in a Federation every State has a right to make its own constitution in its own proper sphere and set up a special body for that purpose. For examle every State constitution now in force in the United States of America was framed in this way. India cannot, therefore, prevent Kashmir, which is at present a unit of the Indian Federation, from exercising a similar right, which, indeed, is expressly recognised in the Constitution of India. Some members of the Council appear to fear that in the process the Kashmir constituent assembly might express its opinion on the question

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of accession. The constituent assembly cannot be physically prevented from expressing its opinion on this question if it so chooses. But the opinion will not bind my Government or prejudice the position of this Council. I have already said this as the representative of the Government of India in this Council and I can do no more than to express my regret that, in spite of the statements which I have made on behalf of my Government, the references to the constituent assembly in the preamble to the joint draft resolution should have been retained in the revised draft.

I shall now turn to the operative part of the revised draft revolution before us.

Paragraph 3 of the resolution instructs the United Nations representative, after consultation with the Governments of India and Pakistan, to effect the demilitrization of the State of Jammu and Kashmir on the basis of the United Nations Commission's resolutions of 13 August 1948 and 5 January 1949 (*S/1100, S/1196*).

Paragraph 6 calls upon the parties—that is, the Governments of India and Pakistan—in the event of their discussions with the United Nations representative failing, in his opinion, to result in full agreement, to accept arbitration by an arbitrator or a panel or arbitrators to be appointed by the President of the International Court of Justice after consultation with the parties.

I shall now invite the Council to look at paragraph 1 of section B of part 11 of the resolution of 13 August 1948.

> "1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A. 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agree to

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begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission."

I shall repeat that last part :

"... the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission."

I shall now continue to read from section B of part 11 of the resolution of 13 August 1948 :

"2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assit local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary."

It is clear from these paragraphs that the stages in which the bulk of the Indian forces are to be withdrawn from the State and the strength of the Indian forces to be retained in the State are matters for agreement solely between the United Nations Commission and the Government of India. Let there should be any shadow of doubt on this point, the Prime Minister of India obtained explicit confirmation of it from the Commission before accepting the resolution. I invite attention to paragraphs 3, 4 and 5 of the Prime Minister's letter of 20 August 1948 and the Commision's reply of 25 August 1948, both of which I proceed quote.

Paragraphs, 2, 4 and 5 of the Prime Minister's letter read as follows :

"3. Since our meeting of 18 August, we have given the Commission's resolution our most earnest thought. There are many parts of it which we should have preferred to be otherwise and more in keeping with the fundamental

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facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognize, however, that if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency:"— that is, the Chairman of the United Nations Commission for India and Pakistan—

(1) That paragraph A, 3 of part II of the resolution should not be interpreted, or applied in practice, as so,

(a) To bring into question sovereignty of the Jammu and Kashmir Government over the portion of its territory evacuated by Pakistan troops;

(b) To afford and recognition of the so-called Azad Kashmir Government; or

(c) To enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.

"(2) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order, and that, therefore the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor. Thus, at any time, the strength of the Indian force maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

"(3) That as regards part III, should it be decided to seek a solution of the future of the State by means of a

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plebiscite, Pakistan should have no part in the organization and conduct of the plebiscite or in any other matter of internal administration in the State.

"4. If I understood you correctly, A, 3 of part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

"As regards paragraph 3 (2), the paramount need for security is recognized by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State are matters for settlement between the Commission and the Government of India.

"Finally, you agreed that part III, as formulated, does not in any way recognize the right of Pakistan to have any part in a plebiscite.

"5. In view of this clarification, my Government, animated by a sincere to desire promote the cause of peace and thus to uphold the principles and prestige of the United Nations, has decided to accept the resolution."

In reply to this letter, the Chairman of the Commission wrote as follows :

"I have the honour to acknowledge the receipt of your communication dated 20 August 1948, regarding the terms of the resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on 14 August 1948.

"The Commission requests me to convey to Your Excellency"—that is, to the Prime Minister of India—"its view that the interpretation of the resolution as

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expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (*c*) the local people of the evacuated territory will have freedom of legitimate political activity. In this connection, the term 'evacuated territory' refers to those terrtories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command.

"The Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the resolution and appreciates the spirit in which this decision has been taken."

Therefore, in the vital matters which I have just mentioned, namely in the matter of the stages in which the bulk of the Indian forces are to be withdrawn and the strength of the forces to be retained in the State—I describe them as vital because they obviously relate to the security of the State—Pakistan has, under the United Nations Commission's resolution of 13 August, no voice and no right to be consulted at all.

This was not due to any oversight or accident of language; it was due to the fact, well known to the United Nations Commission as well as to others, that Pakistan had aided and ultimately joined in the invasion of the State. And, of course, no invader can be given any voice in the disposal or disposition of the protecting forces. Such was the position under the resolution of August 1948, a resolution of the United Nations Commission accepted by Pakistan as well as India.

What is the position under the revised joint draft resolution now before the Council ? Under paragraphs 3 and 6, the position seems to be that, even in these vital matters affecting the security of the State, Pakistan will have a right to be consulted. Furthermore, if Pakistan is not in full agreement with India, the point will have to be decided by arbitrators in whose selection Pakistan will, again, have the right to be consulted. Thus, the draft resolution sees to reopen, in favour of Pakistan, issues which had been settled by the resolution of August 1948.

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First, it seeks to give Pakistan a voice in matters in which Pakistan as an invador of the State, has been rightly denied any voice under the older resolution, and secondly, it seeks to Transfer to arbitrators the right to make vital decisions which under the older resolution, required India's agreement.

These are the new concessions to Pakistan to which I referred in one of my previous interventions. The Council cannot be surprised that Pakistan readily accepts them and India demurs.

Sir Gladwyn Jebb has said that he is unable to see how the proposed arbitration clause can threaten the security of India or work to the detriment of India's rights and responsibilities, I have explained how, and would only ask whether Sir Gladwyn would agree to a proposal that matters of military security vital to the United Kindom should be decided not by its own Government, nor even with its consent, but by arbitrators chosen by somebody else after consultation with the country that has invaded British territory.

No one objects to arbitration as a general principle; but when, under the guise of arbitration, agreements already arrived at are sought to be disturbed in the way I have explained, my Government cannot but object Paragraph 6 of the draft resolution is a violation of the agreed resolution of August 1948, and for this and other reasons my Government cannot accept it.

Recent developments in Pakistan and what is called "*Azad* Kashmir" indicate forcibly the dangers of any failure to give adequate security to the State. The Council will doubtless recollect that, according to the United Nations Commission's own third interim report the so-called *Azad* Kashmir forces were built upto the formidable strength of thirty-two battalions clearing the cease-fire period in violation of the resolution of 13 August. The Commission itself remarked that this made the withdrawal of the Indian forces a far more difficult matter than was contemplated in that resolution. The recent army plot in Pakistan has added greatly to that difficulty. Moreover, the talk of *jehad*, or holy war, to which I have repeatedly referred is as pervasive and persistent as ever in Pakistan.

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In such circumstances my Government cannot be expected to leave to a third party, however chosen, the decision as to how the State should be protected against a recurrence of the horrors of October 1947. My Government has no objection to a new United Nations representative visiting India and Pakistan, if the Security Council so desires, to make a fresh attempt to assist, by suggestion, advice and mediation, in determining how proposals regarding demilitarization under the resolutions of 13 August 1948 and 5 January 1949 should be implemented with due regard to the assurances given to my Government in connection therewith. This, of course, is subject to my Goverment's views regarding arbitration, which I have already explained.

In effect, therefore, the revised draft resolution continues to ignore the basic facts of the situation in Kashmir, and it includes provisions which we have all along made amply clear that we cannot accept. For a peaceful settlement of the problem it is essential that a peaceful atmosphere should be created. The continuous and intensive propaganda in Pakistan for *jehad*, and the leveling of wild and baseless charges against India, hardly provide a suitable background. Nor is the periodic re-agitation of the matter and the constant reopening of closed issues calculated to promote a peaseful settlement of the question. India desires peace above everything—peace for the world and peace with all its neighbours. But there ca' be no lasting peace which is not based on fairness and justice.

134. *Statement by the President of Security Council in the meeting No. 540 held on 2 April 1951,*

The Council will recall how, at the beginning of our 533rd meeting on 1 March last, the President then assuming office, my distinguished colleague Sir Benegal N. Rau, deemed that he should not preside over the Council during the consideration of the India-Pakistan question. In accordance with rule 20 of the rules of procedure, he therefore requested the next member in English alphabetical order, namely, the Netherlands, to take the Chair for the purpose of the consideration of

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this question. Since the Council, during the month of March, had no other business before it but the India-Pakistan question, it has thus been deprived of the great skill and experience which the distinguished and learned representative of India would undoubtedly have brought to the execution of his presidential task. It has fallen to me to preside over the seven meetings which we have devoted during the month of March to the problem before us, but it was Sir Benegal Rau who continued to bear all the other responsibilities of the Presidency. I am certain the members of the Council will agree with me if I tender to him, on behalf of all of us, the expression of our esteem and gratitude on that account, as well as our sincere appreciation of the sense of fairness and equity which was reflected in his decision to vacate the Chair in the situation with which his country is so directly connected.

As for myself, it is now my duty and privilege to assume the Presidency of the Council during the month of April in my country's own right. I can only hope that the Council, in bearing with me for another month, will give me the same cooperation which I was fortunate enough to enjoy during the month which has just ended.

At the end of our preceding [*539th*] meeting, after the vote had been taken on the draft resolution contained in document S/2017/Rev. 1, I informed the Council that the representative of Pakistan had requested an opportunity to make a statement. We then decided to give him the opportunity to do so at this morning's meeting. In answer to a remark by the representative of the United Kingdom, I declared at the time that I could see no objection to affording to any other representative the opportunity to explain his vote if he so desired. No objections were raised in the Council to that procedure, and I therefore now call upon the representative of Pakistan to make his statement.

In so doing I might observe that the discussion concerning the resolution which was adopted last Friday is closed and that questions which were raised during the debate thereon cannot now be reopened. On the other hand, I consider it in order that the representative of Pakistan—who under rule 37

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of our rules of procedure, has been invited to participate without vote in the discussion of the India-Pakistan question, in which the interests of his country are affected—should be given an opportunity now to state the attitude of his Government towards the resolution which has been adopted and concerning which the debate proper is closed.

135. *Text of the speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 540 held on 2 April 1951.*

I ask for the ruling of the President as to whether it is permitted at this stage to go into these matters. If they are already on record, it is hardly necessary now to call our attention again to them.

Strictly speaking, the representative of Pakistan has been invited to the table under rule 37 which reads as follows:

> "Any Member of the United Nations which is not a member of the Security Council may be invited, as the result of a decision of the Security Council, to participate, without vote, in the discussion of any question brought before the Security Cuuncil..."

As the President pointed out, it was under that rule that he acted in inviting the representative of Pakistan to the table.

The discussion of the Indo-Pakistan question, as particularized in our agenda, was closed when the vote was taken. At this stage, even a member of the Security Council does not have the right to make any further address except possibly for the purpose of explaining his vote. Therefore, in inviting the representative of Pakistan to the table, the Council gave him a right which even a member of the Council does not enjoy: to make a speech other than for the purpose of explaining his vote. Pakistan has no vote to explain. Having been allowed an opportunity to state his government's views, I submit to the President that the representative of Pakistan should confine himself strictly to that purpose. It would not be in order for him to go into matters of controversy which, if he had so chosen, he could have entered into before the vote was taken.

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136. *Text of the speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council meeting No. 540 held on 2 April 1951* :

The point that has been raised by the representative of India is such that I would be extremely loath to put the President to the trouble—possibly even the embarrassment—of having to give a ruling on it. Therefore, in deference to his desire, I shall omit that part of my speech and take up the last part in which I propose to place before the Council the view of my Government and its attitude towards the resolution which was adopted on 30 March 1951.

With regard to the resolution adopted by the Security Council, I shall start by saying that I have been instructed by my government to submit to the Council its acceptance of the resolution. The Government of Pakistan accepts the resolution and is determined to afford the fullest co-operation to the United Nations representative who may be appointed by the Security Council, and later, in case of differences arising which cannot be resolved by agreement between the parties, to the arbitrator or arbitrators that may be appointed under paragraph 6 of the resolution.

In the view of my government the resolution divides itself into three parts. The preamble deals with the constituent assembly that is proposed to be convoked in respect of Kashmir. We read the preamble along with paragraph 8 of the resolution, the last part of which requests the Governments of India and Pakistan "to refrain from any action likely to prejudice a just and peaceful settlement of the dispute". Obviously, if the proposal with regard to the constituent assembly is persisted in, it would amount to action that is likely to prejudice a just and peaceful settlement. We have no doubt therefore that the Government of India will give due effect to the wishes that have been expressed by the members of the Security Council as expressed to the debate on this question. In that connection I ought draw particular attention to what was said by the representative of China [*539th meeting*].

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The second part of the resolution deals with interpretation : the principal provision in that respect being contained in paragraph 3 which states :

"Instructs the United Nations representative to proceed to the sub continent and, after consultation with the Governments of India and Pakistan, to effect the demilitarization of the State of Jammu and Kashmir on the basis of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949;"

Some objection was taken to "after consultation" but that was duly dealt with by the representatives in the Security Council, particularly those of the United Kingdom and the United States.

The resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 [*S/1100 S/1196*] at each stage of a cease fire and a true agreement provide for consultation, and part III of the resolution of 13 August 1948, which was not specifically referred to with regard to the settlement of the conditions of a fair and impartial plebiscite, predicates consulation with the two governments and and the settlement of these details by agreements between them. We accept that part also.

But the part that particularly calls upon the two governments to accept a provision is contained in paragraph 6 which:

> "*Calls upon* the parties, in the event of their discussion with the United Nations representative failing in his opinion to result in full agreement, to accept arbitration upon all outstanding points of difference reported by the United Nations representative in accordance with paragraph 5 above; such arbitration to be carried out by an arbitrator, or a panel of arbitrators, to be appointed by the President of the International Court of Justice after consultation with the parties;".

With all respect we submit that at this stage, and having regard to the difficulties that have arisen, that is the only method of making progress. The manner in which the Govern-

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ment of Pakistan regards this question is as follows. Here is an international agreement between the two parties. Difference have arisen which, let us say, relate to the interpretation of the agreement. It has been said any arbitration with respect to our interpretation would reopen issues that have already been settled. Assume that the Government of Pakistan or the Government of India regards a particular question as already settled with reference to that agreement, and the other government considers that that question is not settled or that it is settled in a manner contrary to the one that has been alleged. Then surely that is a question for arbitration. Is this question already settled ? If it is already settled, it will not be allowed to be raised, and the parties will be called upon to implement it in the manner in which it is already settled. If, in the view of the arbitrator, it is not already settled, then it will be settled. How else is this difference to be resolved, the difference where one party says that a certain matter is settled and where the other party says, "No, it is not settled", or that it is settled in a different manner ? Here is a controversy arising with regard to implementation which must be settled by arbitration. We accept that on principle.

With all respect, I am explaining why we fully accept this and are able today to answer the request made in paragraph 6 calling upon my government, as well as the Government of India, to accept certain principles. So far as I am concerned, calling upon my government to accept arbitration upon all those out-standing points of view is different.

My government is able to say here and now that if, unfortunately, it should transpire that matters that are dealt with by the resolution cannot be settled by agreement and there are still outstanding differences, we accept what we are called upon to accept in paragraph 6 because we feel that is the only way of making progress. We accept particularly because, as Members of the United Nations, we have undertaken the obligation to seek pacific settlement of all our disputes. In this particular dispute negotiation, mediation and conciliation have not as yet brought about a settlement. The matter has been carried some distance. There was a cease-

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fire which was very satisfactory. There has been an international agreement incorporated in those two resolutions, but further progress must now be made and quickly.

If we continued to insist that our own particular view on all these matters should prevail, and if we hesitated to accept the method that the Security Council now proposes, we should be failing in the obligation which we have undertaken as Members of the United Nations. Also, our conduct would amount to a repudiation of the intertional agreement which is contained in the two resolutions of the United Nations Commission for India and Pakistan.

We therefore accept this resolution in all its parts and aspects—and particularly paragraph 6—because that is the only course open to us as Members of the United Nations ; it is the only course consistent with our honour, and we consider that any other course would not be honourable.

137. *Text of the speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council meeting No. 543 held on 30 April 1951.*

I have no desire to detain the Security Council for more than a very few minutes with my remarks on this occasion.

The task of the United Nations Representative is clearly and precisely laid down in the resolution adopted by the Security Council on 30 March. It has been admirably paraphrased by the President and other representatives who have already spoken. Reference has been made to the difficulty and delicacy of that task. They are indeed great. The task is not rendered any easier, unfortunately, by the declarations and announcements which have been made by statesmen of India since the adoption of the resolution, including the illustrious Prime Minister of India, who has on various occasions—in Parliament, at Srinagar, in Jammu—declared that India would not accept the resolution and anything flowing from it, and would take the consequences of the refusal to accept it. That is unfortunate. When added to it are the declarations of Sheikh Mohammad Abdullah that they are determined to

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proceed with the convening of the constituent assembly for the purpose of deciding the future of the State, irrespective of the resolution, the difficulties are enormously increased. Nevertheless, we sincerely endorse the hope expressed that the gentleman who has been selected, and whose nomination has been approved by the Security Council to carry out those heavy responsibilities, will achieve success in this difficult and delicate task.

So far as my government is concerned, I have already submitted to the Council our full acceptance of the resolution of 30 March. We shall render to the United Nations Representative every assistance in our power to enable him to discharge fully his heavy responsibilities and to achieve success in the task that has been entrusted to him by the Security Council. Should unfortunate differences that have already been referred to with regard to the effective demilitarization of the State persist, as I have already stated, we shall then be prepared to accept the subsequent portion of the resolution which calls upon the two Governments to accept arbitration in respect of those differences.

As far as the Government of Pakistan is concerned, the representative of the United Nations Security Council might therefore proceed—we hope he will be able to proceed—as early as possible to the sub-continent with the fullest assurance that the Government of Pakistan is determined to discharge to the fullest extent the responsibilities and the duties that it has undertaken in the two resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, so that the way may be opened and the ground may be prepared to enable the people of Kashmir fully and freely to express their wishes on the question of accession of the State to either India or Pakistan.

138. *Text of the speech made by Mr. Bokhari (Pakistan) in the Security Council meeting No. 548 held on 29 May 1951.*

I am grateful to the President for giving me an opportunity to submit the views of the Government of Pakistan to the

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Security Council on this occassion. I have noted the wishes of the President with regard to the limitations of the present discussion, and I assure him that I shall respect them fully in my statement.

The two letters, on dated 4 May 1951 and signed by the Minister for Foreign Affairs of Pakistan, and the other dated 8 May 1951 and signed by myself; both addressed to the President, which are for the Security Council's consideration, appear as documents S/2119 and S/2145 respectively. In the first letter, the attention of the Security Council has been drawn to a proclamation issued by the Yuvaraja of Jammu and Kashmir for convoking a constituent assembly in the State. The second letter brings to the notice of the members of the Security Council an extract from a speech delivered by the Prime Minister of Indian-occupied Kashmir which reveals that the purpose of the Maharaja's Government in convening the said constituent assembly is to decide the future shape and affiliation of Kashmir, defiantly declaring that no power can veto the decision of the proposed constituent assembly.

The contents of the Yuvaraja's proclamation and the utterance of Sheikh Abdullah, to which the attention of the Security Council has been drawn, have appeared in the Press, including the Indian Press. There has been no denial of the accuracy of these reports and no statement by the Indian authorities has appeared which should cast doubt upon them. It can therefore be safely assumed that the facts are as stated in our two letters to the President of the Security Council.

The subject of these two letters is by no means new to the Security Council. The attempt to convoke a constituent assembly in the India-held part of Kashmir and the grave threat to the prospects of a peaceful settlement of the Kashmir dispute which lies in such an unwise, undemocratic and defiant manoeuvre have been thoroughly discussed by the Security Council. It is a thousand pities that the Security Council has to turn its attention again to this matter and that this time it has to do so because its appeals, warnings. requests—whatever one likes to call them—to the Government of India have been ignored.

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The plan to convoke a constituent assemble was brought to the notice of the Security Council as early as 14 December 1950, in a letter to the President of the Security Council from the Minister for Foreign Affairs of Pakistan [*S/1942*]. The representative of the United Kingdom, in his intervention on 21 February 1951 (*532nd meetings*), found it difficult to reconcile the action contemplated in the Kashmir National Conference resolution with the agreement "already enshrined" as he said "in the two Kashmir Commission resolutions" which, he pointed out, provided for settlement of the future accession of the State by a fair and impartial plebiscite conducted under the auspices of the United Nations. He added:

> "...my Government has felt some anxiety lest the Kashmir State authorities should embark on some kind of independent action which would be a challenge, as we felt, to the authority of the Security Council and of the United Nations."

Ambassador Ernest Gross, speaking on the same day, was "impressed by the sober anxiety which Sir Gladwyn Jebb voiced on this matter" and in particular associated his Government with the statement of the representative of the United Kingdom that :

> "...no reference to the wishes of the people of Kashmir regarding the future accession of the State made otherwise than under the auspices and with the full consent of the United Nations can be regarded as constituting a settlement acceptable to this Council."

It was hoped that the representative of India would reassure the Council that the device of a constituent assembly to evade an international agreement and to deny the right of self-determination to the people of Kashmir would not be proceeded with. He did indeed say that so far as his Government was concerned, the constituent assembly was not intended to prejudice issues before the Security Council or to come in

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its way [*533 meeting*]. But this so clearly contradicted the statements made by the Prime Minister of India and Sheikh Abdullah, from which excerpts were read before the Council [*534th meeting*], that the representative of India was constrained to modify his previous statement and to say that while the constituent assembly might, if it so desired, express an opinion on the question of accession, it could take no decision on it [*536th meeting*].

This was at best a very precarious stand. Far from being reassuring, it only served to increase the apprehension felt by Pakistan and by all those who regard the international agreement between India and Pakistan to hold a fair and impartial plebiscite under United Nations auspices as the only possible peaceful solution of the Kashmir dispute.

On 21 March, therefore, the representative of the United Kingdom expressed his concern in the following words [*537th meeting*]:

> "I wish I could say to the Council that we feel satisfied from what the representative of India has said that the Government of Pakistan has no cause for disquiet in respect of the proposed constituent assembly. Indeed, if it had not been for a series of disturbing pronouncements by Sheikh Abdullah and by Ministers of the Government of India and of the Kashmir State Government, the Council would probably have felt that what the representative of India has told the Council was a sufficient guarantee that nothing would be done by the constituent assembly which would in any way prejudice the settlement of the future accession of Kashmir in the manner to which the two Governments and this Council are committed.
>
> "But when the Council is confronted with a statement by the Prime Minister of the Kashmir State Government that "without caring for the opposition of Pakistan, Britain and America, the proposed constituent assembly for the State will be set up on the due date to decide all

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big issues including accession', the view of the Government of India as stated by its representative, that 'while the constituent assembly may, if it so desires, express an opinion on this question it can take no decision on it' does not hold out any real promise that the Government of India will take all steps possible to prevent the Kashmir State Government from action which must inevitably prejudice the work of the United Nations in settling this dispute. I therefore wish to make a further earnest appeal to the representative of India to make it clear beyond all doubt that his Government will do everything in its power to prevent action which will damage the work of the Council of which he himself is so distinguished a member."

No such clear assurance was given by the representative of India. As regards his plea that in convoking a constituent assembly, the Maharaja's Government was operating within an autonomous sphere, the representative of the United States observed [*537th meeting*] :

"The matter of the final disposition of the State of Jammu and Kashmir is international question, a matter which this Council has had within its purview for more than three years. It clearly falls within the field of external affairs and Sir Benegal Rau has told the Council that the external affairs of the Government of Kashmir are within the control of the Indian Government. The Security Council, therefore, should be entitled to assume that the Government of India will prevent the Government of Kashmir from taking action which would interfere with the responsibities of this Council."

The representative of Turkey, observing that a free and impartial plebiscite conducted under the auspices of the United Nations was the only way to bring about a just solution of the question of Jammu and Kashmir, added [*538th meeting*] :

"Once we have accepted this principle, we must also admit that such measures as convening a constituent

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assembly which will not be representative of the whole territory, in order to decide the future of the State, would not be in harmony with this principle."

The representative of the Netherlands put the matter very tersely when he said [*538th meeting*] :

"The choice of affiliation to one nation or another is so fundamental in its nature and consequences that only the people themselves can and ought to make that choice. It stands to reason that such a choice should be freely made untrammelled by biased pressure from interested outside parties. No prearranged political organization in part of the State concerned, set up under the auspices of authorities which have already made their choice, should interfere with this complete freedom of choice."

The representative of Ecuador said [*539th meeting*] :

"In present circumstances the constituent assembly of Jammu and Kashmir cannot be considered as representing the people as a whole or as free manifestation of the people's will and the decisions of such an assembly can neither change nor deprive of their effect the international undertakings entered into by India and Pakistan in respect of the plebiscite."

The representative of China also was very apprehensive and feared that "such a constituent assembly may adopt a resolution declaring the accession of the State of Jammu and Kashmir to India, or the assembly may incorporate in the constitution an article to that effect". Apart from this, he felt that "such a constituent assembly might prejudice the issue in other way". I quote from his remarks of 30 March *1951* [*539th meeting*] :

"In the first place, a constitution adopted before the plebiscite would have the tendency, or at least the appearance of having the tendency, of making a formal definitive relationship of Kashmir to India. In the second

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place, the constitutional provisions which the constituent assembly might adopt might dovetail the State political structure of Kashmir so closely with the State political structure of India as to signify definitive accession. Such tendencies or appearance may arouse suspicions and passions which may make the solution of the problem more difficult than it is now."

With the weight that attaches to all these views so clearly, so forcefully and so cogently expressed, the Security Council adopted a resolution on 30 March 1951 affirming, *inter alia*, in extremely moderate but unambiguous terms, that any action that the proposed constituent assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations. Paragraph 8 of the operative part of the resolution called upon the Governments of India and Pakistan "to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement".

Yet, within a few days of the adoption of this resolution, in fact on the very day on which the Security Council approved the appointment of Mr. Frank P. Graham as United Nations Representative for India and Pakistan [*543rd meeting*] the Maharaja's Government issued a proclamation which, to say the least, showed scant regard for the timely warnings given by the Pakistan representative and the grave anxiety expressed by members of the Security Council. The paraphrasing of that proclamation as provided by Sheikh Abdulla [*S/2145*] leaves little doubt, if doubt there ever was, as to the real intent and purpose behind the proposed convocation of a constituent assembly in the India-held part of Kashmir.

As early as 21 February 1951, the representative of the United State of America in his statement said [*532nd meeting*]:

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"It is our impression that the proclamation which ordered the carrying into effect of these steps implementing the 28 October Kashmir National Conference resolution was approved by the Government of India."

That impression was and is widespread. That view was and is held by many besides those who have taken part in the attempts to find a just and peaceful solution of the Kashmir dispute. So far as the Government of Pakistan is concerned, it is not its impression but its conviction that the responsibility for the proposed step to convene a constituent assembly in the part of Kashmir which is under Indian military occupation rests on the Government of India. The various declarations made from time to time by Indian spokesmen as regards the purpose of the proposed constituent assembly are, at best, contradictory and evasive. But there is not a single assurance to be found among them that the question of accession is regarded by the Indian authorities as strictly outside the purview of such a body. In fact, Indian spokesmen have emphatically asserted to the contrary. The plea that the constituent assembly's main purpose is to frame a constitution for Kashmir has not, I believe, deceived anyone. If it is the intention of the Government of India to honour the international agreement to which it is a party and to decide the future affiliation of Kashmir by a free and impartial plebiscite under United Nations auspices, will not common sense dictate that first things should come first, and the question of the constitution should be taken up only after the question of accession is settled? To proceed with the constituent assembly at this stage, whatever its avowed purpose may be, is deliberately to ensure the appeals made to India by many members of the Security Council and the wishes of the Security Council which called upon both parties to ensure the condition and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful solution. I regret to say that India has so far hardly passed any test which could be regarded as crucial and which should prove beyond doubt that it respects the right of self-determination of the people of Kashmir

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and is anxious to reach a peaceful solution of the Kashmir dispute.

The device of a so-called constituent assembly in India held Kashmir would, if persisted in, be a most happy augury for the future. That it is by no means innocuous as may be claimed is clear to neutral observers. For example, the correspondent of the *New York Herald Tribune*, reporting from Srinagar in the issue of 27 May, comments on the attitude of non-cooperation with the United Nations amongst Indian officials, and goes on to say :

"This attitude is also prevalent in Kashmir, where officials are determined that nothing Mr. Graham says can alter their intention to convoke a constituent assembly which, among other tasks, will be empowered (with the sanction of the Indian Government) to make the final decision for accession to India."

Can such a decision—or, for that matter, any decision arrived at by a mere show of voting in any part of Kashmir, so long as the Indian Army is in occupation in that part—be a free or democratic decision ? Said the same correspondent speak :

> "Like all foreigners, he"—that is, Mr. Graham—"will discover that his comings and goings are shadowed by *opera bouffe* plainclothes policemen, who may seem humourous to Westerners, but not so funny to natives of Kashmir who happen to voice unpopular opinion."

This correspondent also observes :

> "It is now obvious that India, in strong possession of the Valley of Kashmir, intends to hang on to it even if this policy should involve outright defiance of the United Nations or war with Pakistan."

I must therefore convey to the members of the Security Council the impatience and bitterness which the long delay over the settlement of the Kashmir question and the continued intransigeance of India have created in the minds of the people

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of Pakistan. The proposed constituent assembly is, in their view, an attempt on India's part to contrive yet another pseudolegalistic subterfuge to cover its occupation of Kashmir by force and against the will of the people.

For the sake of the prestige of the Security Council and of the United Nations, if for no other reason, the impression should not be allowed to grow that India can break its international pledges without world opinion pronouncing its verdict on the grave danger to international morality and international peace which such a breach would involve. The Government of Pakistan therefore sincerely hopes that the Security Council will take resolute action in the matter.

We are not convinced that there is need for framing a new constitution for Kashmir before the question of accession is impartially decided under United Nations auspices. We are not convinced that the proposed constituent assembly is not an attempt to confuse the issues, poison the atmosphere and obstruct a just and peaceful solution. And, finally, we are not convinced that the Government of India can be absolved of its full responsibility in this matter by any attempt on its part theoretically to separate the so-called autonomous sphere of the Maharaja's Government from India's own sphere of authority.

139. *Text of the speech made by Mr. Dayal (India) in the Security Council meeting No. 548 held on 29 May 1951*

Rule 8 of the Security Council's rules of procedure provides that "the provisional agenda for a meeting shall be communicated...at least three days before the meeting", unless the circumstances are urgent, in which case "it may be communicated simultaneously with the notice of the meeting".

There has not been the usual three days' notice in this case, nor can it be said that consideration of documents S/2119 of 4 May 1951 and S/2145 of 10 May 1951 is a matter of urgency, since those documents have been before members of the Council for a considerable time. Nor, indeed, has there been any new development in the situation which was not

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envisaged by the Council when this question was extensively discussed in the month of March 1951. Nevertheless, my delegation has raised no objection to the inclusion, at short notice, of this item on the agenda, with the explanation given by the President. The reason, of inclusion is that the position of my Government on this matter has already been fully and clearly defined.

Let me recall what Sir Benegal Rau stated to the Council on the subject of the proposed constituent assembly in Kashmir. On 1 March 1951, he said [*533rd meeting*] :

> "The present legal position is that Kashmir—by which I mean the State of Jammu and Kashmir—is the unit of the Indian Federation, subject to federal jurisdiction in respect of the broad categories of defence, external affairs and communications, but completely autonomous in almost all other matters. In the autonomous sphere, the State is entitled to frame its own constitution and, for this purpose, to convince a constituent assembly of its own people. The main purpose of the constituent assembly would be to provide a proper elected legislature for he Sttate of which the executive could be made responsible, as in the British parliamentary system of government, as far as the Government of India is concerned, the constituent assembly is not intended to prejudice the problem before the Security Council, or to come in its way".

Again, on 9 March, the representative of India declosed [*536th meeting*] :

> "I shall now turn to a matter which appears to have caused some concern to certain members of the council, namely, the proposed to convene a constituent assembly for Kashmir. As I have already said, Kashmir is at present a unit of the Indian Federation and has to be governed accordingly. When we were drafting a constitution for India, we had to consider what provision should be made for the constitutions of the various units of the Indian Federation. It was decided that the framing of these constitutions should be entrusted to a constituent assembly for the unit concerned. Accordingly, several

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units convoked constituent assemblies for the purpose—for example, Saurashtra, Travancore-Cochin and Mysore. Others lagged behind, for one reason or another. Kashmir is one of the units where a constituet assembly has not yet been convoked so that the constitution of the State is still to be made. Members to please note that the machinery of a constituent assembly was not devised only for Kashmir, but for other similar units of the Indian Federation as well. Indeed, if is the recognized machinery for the framing of the constitution in most parts of the world. Accordingly, provision was made in the Indian Constitution for a constituent assembly for settling the details of the Kashmir constitution. Will that assembly decide the question of accession ? My Government's view is that, while the constituent assembly may, if it so desires, express an opinion on this question, it can take no decision on it."

On 29 March 1951, the representative of India stated the following to the Security Council [*538th meeting*] :

"This brings me to the subject of the constituent assembly, which apparently continues to disturb some of the members of the Council. I have already explained my Government's views on this subject [*536th meetings*]. Even in a federation, every State has a right to make its own constitution in its own proper sphere and to set up a special body for that purpose. For example, every State constitution now in force in the United States of America was framed in this way. India cannot therefore, prevent Kashmir, which is at present a unit of the Indian Federation, from exercising a similar right, which, indeed, is expressly recognized in the Constitution of India. Some members of the Council appear to fear that in the process the Kashmir constituent assembly might express its opinion on the question of accession. The constituent assembly cannot be physically prevented from expressing its opinion on this question if it so chooses. But this opinion will not bind my Government or prejudice the position of this Council."

That continues to be the position of my Government, and

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I reaffirm that so far as the Government of India is concerned, the constituent assembly for Kashmir is not intended to prejudice the issue before the Security Council or to come in its way.

From the statements made by the representative of India on three previous occasions, which I have just quoted, and from my re-affirmation of the position today, it should be obvious that the allegations made in paragraph 3 of the letter from the Minister for Foreign Affairs of Pakistan (*S/2119*) and in the statement the Council has just heard from the representative of Pakistan, are completely negatived.

That concludes the statement which I have to make, and I reserve the right to reply, if necessary, to any other points that may be brought up in the course of the consideration of this matter by the Council.

140. *Text of the speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council meeting No. 571 held on 30 January 1952*

The Kashmir question has been before the Security Council since 1 January 1948. During these four years every aspect of the question has been examined. On-the-spot inquiries have been made by the United Nations Commission for India and Pakistan (UNCIP) by Sir Owen Dixon and now by Mr. Frank P. Graham. The fullest information has therefore already been made available to the Security Council on this question. The representatives of India and Pakistan have also stated their views at great length before the United Nations Commission, the United Nations representatives and the Security Council itself. The official correspondence on the subject runs into hundreds of pages, while the verbatim records of the Security Council are even more voluminous. It is thus not for want of factual information with regard to the various aspects of the problem, nor for lack of knowledge of the views of the parties, that the dispute has not so far been settled. The deadlock that has unfortunately been reached with regard to the matter is also not due to the absence of an agreement.

After hearing both sides at length and ascertaining their

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views in detail and taking all relevant factors into account, the United Nations Commission obtained the agreement of India and Pakistan to which the UNCIP resolutions of 13 August 1948 and 12 January 1949 apply. These two resolutions together constitute the international agreement with regard to Kashmir and cover all the stages from the cease-fire to the holding of the plebiscite. It has been the concern of those who have been called upon since to deal with the matter—General McNaughton, Sir Owen Dixon and Mr. Frank P. Graham—to preserve and build upon the measures of agreement already reached between India and Pakistan. In pursuance of this international agreement the cease-fire came into effect on 1 January 1949 and an agreement on the demarcation of the cease-fire line was reached on 27 July 1949.

Admiral Chester W. Nimitz of the United States Navy was designated as Plebiscite Administrator, with the agreement of India and Pakistan, on 22 March 1949. Since January 1949 Pakistan has been striving to secure the implementation of the remaining terms of the agreement. There has at no time been any question of anything being imposed from outside on either party. The efforts of the Security Council have been directed solely, towards securing an implementation of the agreement existing between the parties. The deadlock that is now almost three years old is related to the demilitarization of the State of Jammu and Kashmir preparatory to the holding of the plebiscite and the induction into office of the Plebiscite Administrator.

When the cease-fire was agreed, the armed forces engaged in Jammu and Kashmir fell into the following categories. On the Pakistan side there were the tribesmen and Pakistan nationals who had entered the State for the purpose of fighting, and also regular troops of the Pakistan Army and the *Azad* Kashmir forces. On the Indian side of the cease-fire line the forces consisted of regular Indian armed forces and State armed forces, which include the State army and State militia.

The resolution of the Commission envisaged demilitarization in two stages. The first stage provided for withdrawal of tribesmen, of Pakistan volunteers and Pakistan troops, on the

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one side, and of the bulk of the Indian forces on the other side, (*Vide* part II of the resolution of 13 August 1948.) The second stage provided for the final disposal of the remaining forces in the State, namely, the *Azad* Kashmir forces on the one side and the Indian forces remaining after the withdrawal of the bulk of the Indian forces and the State forces and militia on the other side. (*Vide* paragraph 4 of the resolution of 5 January 1949.) The obligation on Pakistan to persuade the tribesmen and volunteers to withdraw, in the language of the resolution, arises only after the signing of the truce agreement which has not yet been reached or signed, but as proof of good intentions and of its anxiety to proceed with the implementation of the resolution, Pakistan discharged its obligation without waiting for the conclusions of the truce agreement. Pakistan has also been prepared to withdraw the Pakistan forces of the regular army and to agree to large-scale disbandment of the *Azad* Kashmir forces, provided that India would carry out its commitment regarding withdrawal of Indian forces and the large scale disbandment of the State army and militia.

It is not necessary to go over the history of the Kashmir dispute. The Pakistan case has been stated at length before the Security Council on several occasions. The attention of such members of the Council as may be anxious to discover where to find the case stated in detail is drawn to the records of the Security Council meetings of 8, 9 and 10 February 1950 and 6, 7 and 9 March 1951 [*464th-466th, 534-536th meetings*]. The terms of reference of the United Nations Representative for India and Pakistan are contained in the Security Council resolution of 30 March 1951 [*S/2017/Rev. 1*]. Paragraph 3 of this resolution instructs the United Nations Representative to effect, in consultation with the Governments of India and Pakistan, the demilitarization of the State of Jammu and Kashmir on the basis of the UNCIP resolutions of 13 August 1948 and 5 January 1949. If Mr. Graham was not successful in carrying out this task, he was instructed to report to the Security Council those points of difference between the parties in regard to the interpretation and execution of the two resolutions which he considered must be resolved to enable such demilitarization to be implemented.

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After visiting Jammu and Kashmir and holding a number of meetings with representatives of India and Pakistan, Mr. Graham put forward, on 7 September 1951, twelve proposals for a comprehensive programme of demilitarization preparatory to the holding of a plebiscite. (*Vide* annex 2 of document S/2375). Mr. Graham informed the Security Council in this report that he had been able to secure agreement only on the first four of his twelve proposals, namely, those relating to the observance of the cease-fire agreement and the cessation of warlike propaganda and the reaffirmation of the undertaking that the question of the accession of the State of Jammu and Kashmir to India or Pakistan should be decided in a free and impartial plebiscite under the auspices of the United Nations.

The Security Council considered Mr. Graham's report of 15 October 1951 and his personal statement of 18 October 1951 [*564th meeting*], and adopted a resolution [*S/2392*] on 10 November 1951 [*566th meeting*] noting the basis for a programme of demilitarization which could be carried out in conformity with the previous undertakings of the parties, put forward by the United Nations Representative in his communication of 7 September 1951 to the Prime Ministers of India and Pakistan [*S/2375, annex 2*]. The Council instructed the United Nations Representative to continue his efforts to obtain agreement on the demilitarization plan, and requested him to report concerning his efforts and his views on the problems confided to him.

The second report of the United Nations Representative was submitted to the Security Council on 18 December 1951 [*S/2448*]. On 17 January 1952 Mr. Graham made a personal statement before the Security Council (*570th meeting*). Since then the United Nations Representative has released the tentative plan on demilitarization proposed by his Military Adviser, General Devers [*S/2485*]. Mr. Graham has pointed out that, as a result of his second effort, he had obtained agreement on points 8, 9, 11 and 12 of his truce proposals of 7 September 1951. These related to the procedure for working out the details of a demilitarization plan, and the powers of the Plebiscite Administrator to determine the final disposal of all the remaining forces in consultation with the United Nations

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Representative and the authorities concerned. Mr. Graham informed the Security Council that agreement had not been reached on the four basic proposals 5, 6, 7 and 10. "Agreement on these four proposals", wrote Mr. Graham, "is most essential for carrying out the plan of demilitarization envisaged as an integrated whole in the twelve proposals" [*S/2248, para 29*].

These four proposals relate to the scope and extent of demilitarization, the period within which the demilitarization programme should be carried out, the quantum of forces which should remain at the end of demilitarization, and the date on which the Plebiscite Administrator should be formally appointed to office. After taking into account the views of both parties, Mr. Graham came to the following conclusions on the four basic proposals concerning which he had not succeeded in obtaining the agreement of India and Pakistan [*S/2448, para. 32*].

First, he pointed out that the proposals for a demilitarization programme in a single continuous process implied, in his opinion, the implementation as a whole of part II of the UNCIP resolution of 13 August 1948 and of sub-paragraphs 4 (*a*) and (*b*), of the UNCIP resolution of 5 January 1949. The demilitarization programme should, therefore, be in accord with paragraph 7 of his proposals. In other words, the demilitarization programme should embrace all the fighting forces within the State, namely, tribesmen, Pakistan volunteers and troops and *Azad* Kashmir forces, on the one hand, and the Indian forces, the State army and militia, on the other.

Secondly, Mr. Graham recommended that the demilitarization programme should be completed by 15 July 1952 unless another date is agreed upon by the representatives of India and Pakistan.

Thirdly, Mr. Graham recommended that at the end of the programme of demilitarization there should remain "on each side of the cease-fire line the lowest possible number of armed forces based in proportion on the number of armed forces existing on each side of the cease-fire line on 1 January 1949". Mr. Graham explained to the Security Council on 17

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January, in his address, that he did not have the expert knowledge to suggest what the exact figures should be, but he had suggested the afore-mentioned principles as a basis for an approach to the prablem. He said [*570th meeting*] :

> Concerning the first point, the reasons are obvious : both parties have agreed to the demilitarization of the State of Jammu and Kashmir and the Security Council has recommended that the demilitarization should be effec ed.
>
> Concerning the second point, it is the view of the United Nations Representative that the way to demilitarize is to withdraw, or reduce, or disarm and disband, armed forces, and that the simplest and clearest and one of the most workable principles may be co-ordination in the continuous process so as to have at the end of the period of demilitarization the smallest number possible based in proportion on the number existing at the beginning of the cease-fire on 1 January 1949."

Fourthly, Mr. Graham recommended that the Government of India "shall cause the Plebiscite Administrator to be formally appointed to office not later than the last day of the demilitarization period", that is, 15 July 1952.

Mr. Graham attaches importance to this part of his truce proposals. He told the Security Council on 17 January 1952 :

> "It is the view of the United Nations Representative that an agreement for a specified time for the induction into office of the Plebiscite Administrator would contribute to the further development of a more friendly atmosphere. One of the main keys to the complex problems of demilitarization, the possible linchpin which would integrate the twelve-point programme, the clearest symbol both of the necessary and ultimate demilitarization in the promised plebiscite, would be the fixing of a definite day for the induction into office of the Plebiscite Administrator.
>
> "The United Nations Representative holds the view that the best day for the induction into office of the Plebis-

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cite Administrator is not at the beginning or midway but the last day of the contemplated period, which is not later than 15 July 1952."

I may recall to the memory of the members of the Council that the two UNCIP resolutions contemplate that the Plebiscite Administrator would be formally appointed to office at the beginning of the second stage of the demilitarization, the stage that is set out in sub-paragraph 4 (*a*) and (*b*) of the resolution of 5 January 1949; that is to say, very much earlier than contemplated by Mr. Graham. Pakistan's views regarding Mr. Graham's truce proposals of 7 September 1951 are set out in the late Prime Minister's letter dated 12 September 1951 [*S/2375, annex 4*] and in my letter dated 11 December 1951 [*S/2448, annex 5*]. Pakistan is equally ready to carry out a programme of demilitarization in two stages as envisaged in the UNCIP resolutions, or a demilitarization programme in one single continuous process, as proposed by Mr. Graham. But Pakistan could not possibly be expected to agree to any one-sided demilitarization arrangement. For us, demilitarization is not an end in itself; it is an essential preliminary to the holding of a free and impartial plebiscite.

We also agree to Mr. Graham's proposal that the Plebiscite Administrator should be inducted into office not later than the last day of the demilitarization programme, namely, 15 July 1952, although, as I have said, that would postpone his formal appointment to a later period than that contemplated in the UNCIP resolutions.

In short, we accept in principle the truce proposals formulated in Mr. Graham's second report to the Security Council. We consider, however, that for the sake of clarity, and in order to avoid future controversies; some of the important terms used in Mr. Graham's proposals should be defined and other necessary details should be filled in. In this connexion, the spade work done by General Devers, and the demilitarization plan drawn up by him, after much thought and prolonged study, should prove very helpful.

At the 570th meeting of the Security Council held on 17 January 1952, the representative of the USSR referred to

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certain Press reports relating to the granting of military bases in Kashmir to the United States. I wish to state clarly and with authority that these reports upon which he relied for his statement are utterly false and without any foundation whatsoever. We have neither been asked for, nor have we offered, any military or other bases to the United States or any other Power. I trust that any misapprehension that might have been raised in the mind of the representative of the USSR on the basis of the reports to which he refers will now be set at rest.

The USSR representative has also observed that the settlement of the Kashmir dispute should be "inspired by the principal of equal rights and self-determination of peoples proclaimed in the United Nations Charter", and that the people of Jammu and Kashmir should determine their future through a democratically elected representative constituent assembly. I have since understood that his reference was not to the constituent assembly convened in Indian-occupied Kashmir, but to a new constituent assembly for the whole of Jammu and Kashmir elected under conditions of absolute freedom and impartiality and free from all pressure and interference.

The difference between what the USSR representative suggested and what the Security Council has sought to achieve with the agreement of India and Pakistan is one of method, not of principle. Throughout this controversy, India, Pakistan and the Security Council have been agreed that the question of the accession of Jammu and Kashmir to Pakistan or India should be decided through the democratic method of a free and impartial plebiscite. This fundamental principle is embodied in the preamble to the Security Council resolution of 21 April 1948 [S/726] and in paragraph 1 of the UNCIP resolution of 5 January 1949. Pakistan fully subscribes to this principle. It not only agrees, but is insistent and eager, that conditions should be created as speedily as possible to enable the people of Jammu and Kashmir freely to record their view on this question. Every measure that the Security Council can devise to achieve this end will have the fullest and unqualified support of Pakistan.

Mr. Graham described the Kashmir dispute as a turning

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sore which is poisoning the relations between India and Pakistan and draining away the resources and energies of both countries. The dispute has been before the United Nations for over four years. All efforts at negotiation, mediation and conciliation have failed. The time has come for the Security Council to face the issue and bring about a peaceful settlement of the dispute. The welfare and prosperity of over 400 million human beings and the peace and stability of South Asia are at stake. The situation brooks no further delay. It calls for prompt, firm and decisive action. We earnestly hope that the yearnings and prayers of the millions of people of Jammu and Kashmir and the Indo-Pakistan sub-continent will not remain unanswered, and that the Security Council will now take definite steps to resolve the points in dispute submitted by Mr. Graham, so that the implementation of the two UNCIP resolutions may be resumed and pushed vigorously forward.

Sir Gladwyn JEBB (United Kingdom) : I have listened with great attention to the speech made by my friend, the Minister for Foreign Affairs of Pakistan. We are all, I am sure, very grateful to him for the *resume* which he has given us of the negotiations conducted by Mr. Graham since the Security Council resolution of 30 March 1951, and we shall all doubtless wish to study the conclusions which he has drawn.

Sir Mohammad Zafrulla Khan has also, if I may say so, dealt most effectively with the allegations made by the representative of the Soviet Union in his intervention on 17 January with which, as the Council will recollect, I also dealt at the time. I do most sincerely hope that these extraordinary red herrings will not continue to be drawn across the trail and that the Council will return to the atmosphere of objectivity which, until the USSR representative made his last intervention, had always, I think I am right in saying, characterized its consideration of the Kashmir problem.

The representative of India will presumably, at some stage in our discussion, wish to comment on the views expressed by the Foreign Minister of Pakistan and to put forward the views of the Government of India on the points immediately at issue. In the belief that both parties will seek so far

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as possible to avoid controversy—which I know is the intention—I have asked the President's permission to speak before the representative of India, in the hope that, by putting before the Council certain proposals—constructive as we believe—we may be able to confine our discussion to a quite brief examination of the steps likely to carry this problem further forward towards a solution. In our long and painful consideration of the Kashmir question, we have—as it were—inched our way slowly forward, one step at a time. Now, however, seems to be the time to take one final step.

We have now had time to give proper study to Mr. Graham's second report and to the text of the important and helpful oral statement which he made to the Council on 17 January 1952. The United Kingdom Government had hoped, of course, that Mr. Graham, during the further period of six weeks in which he continued his negotiations with the two parties here in Paris, would succeed in resolving the outstanding points of difference between them. We had hoped that, with the points of difference so clearly defined, the way would be found to reach agreement on them. I shall not, therefore, conceal the fact that the United Kingdom Government was deeply disappointed when Mr. Graham's second report showed that on the two basic points—the points which go to the very root of this problem of arranging a plebiscite in Kashmir—the differences between the Government of India and Pakistan seem to be almost as wide as ever. As we know, Mr. Graham defined these two points in his oral statement as follows : first, the minimum number of forces to be left on each side of the cease-fire line at the end of the period of demilitarization; and, secondly, the fixing of the definite time when the Government of India would cause the Plebiscite Administrator to be inducted into office.

Agreement between the parties must clearly be reached under these two heads before we can hope to go forward to the plebiscite and to the final goal to which both the parties have pledged themselves : namely, a decision by the people of Kashmir whether the accession of their State should be to India or to Pakistan. How such agreement can best be brought

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about is, I submit, the matter which requires our immediate attention.

I do not wish to suggest to the Council that because these basic differences continue no progress has been made during Mr. Graham's tenure of office as United Nations Representative. On the contrary, I believe that there has been significant progress and that we are all greatly indebted to Mr. Graham for clearing a good deal of the ground towards a final settlement of the dispute. In the first place, it has been a considerable gain, in our view, for Mr. Graham to fortunate the main points on which agreement between the two Governments is required, in the form of his twelve-point proposal. This has introduced clarity into the consideration of the dispute and has disposed of a number of uncertainties and ambiguities which tended to cloud the earlier negotiations. Also, we must by no means overlook the importance of the eight points in Mr. Graham's proposals to which the two Governments have expressed their agreement.

It is because of the success which Mr. Graham has had in carrying his negotiations forward that the Government of the United Kingdom now believes that he should pay a further visit to the sub-continent to make one final attempt to bring about a solution of the two outstanding points of difference which I mentioned earlier. After all, we must admit that the circumstances for Mr. Graham's last round of negotiations were perhaps not entirely propitious: The Government of India was already preoccupied with the arrangements for its general election, which, as we all know, on account of both the size of the country and the great extension of the franchise, has presented many difficult problems. The United Kingdom Government therefore hopes that, now that the Indian elections are, as I believe, virtually over, and now that both the Government of India and the Government of Pakistan are ready—and we believe indeed anxious—to give their full attention to the task of working out an agreement on outstanding points, continued negotiations by Mr. Graham will be fully justified.

Another reason which has moved us to suggest continued negotiations by the United Nations Representative is that, by

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going to the sub-continent, he might be able to arrange for representatives from both sides, able to speak for their Governments, to meet together under his chairmanship to discuss how best to resolve the differences at present preventing demilitarization, the plebiscite and the final settlement of the dispute. Indeed, he might find the situation such that it would be possible for the two Prime Ministers themselves to meet under his chairmanship. That might happen. I express this hope, because we think that such joint discussions offer the best hope of speedy progress. Of course, Mr. Graham would have to decide himself when the moment was appropriate for them, and we would not wish in any way to limit his discretion. But, should he decide that joint discussions were desirable, we trust that he would find the two parties ready to fall in with his proposals for bringing them about.

It is scarcely necessary, I suppose, for me to say that the United Kingdom Government is fully aware of the urgent need for a settlement of this dispute and for some early and tangible proof that the Security Council and its representative, Mr. Graham, are carrying matters forward towards a settlement. I would therefore suggest that, if the procedure which I have just put before the Council is adopted. Mr. Graham should report back to the Council on the results of his further negotiations by the end of March. I think it most important—and I am sure hat Mr. Graham himself would agree—to set some time limit in this way for any further round of negotiations.

There is no need to speak of terms of reference, I think, for the negotiations which I have suggested. In a long series of resolutions, the Council has already clearly defined the path along which a settlement has to be approached. The two parties, by their acceptance of the two resolutions of the United Nations Commission for India and Pakistan, are themselves pledged to a programme for achieving a settlement. Mr. Graham himself, by the twelve-point proposals which he has submitted to the parties in furtherance of the principles contained in the resolution of 30 March 1951, has already set the course which he will follow.

Throughout his negotiations, Mr. Graham has clearly been guided by two main principles, with which the United

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Kingdom Government—and, I have no doubt, the governments of most other members of the Security Council—is in complete agreement. The first is that, in order that the plebiscite shall be demonstrably fair and free from any external pressure, the number of troops on both sides of the cease-fire line should be reduced to the absolute minimum compatible with the need to preserve law and order and internal security, and that both parties should co-operate to this end in a spirit of mutual trust and goodwill. The second is that once the process of demilitarization and preparation for a plebiscite has started, the momentum should be maintained until the whole operation is completed.

The twelve proposals which Mr. Graham put to the two parties last September, and has since been discussing with them, are firmly based on these two principles and we feel satisfied that they are on the right lines. As I have already said, agreement has been secured on eight of them and there has been progress in defining more closely the other four. In our view the object of the new discussions between the parties should be to build on these proposals of Mr. Graham's to consolidate the progress already made, and to tackle the outstanding points of difference on the basis of the two principles to which I have referred in a resolute effort to reach agreement on them.

In paragraph 32 of his second report, Mr. Graham has expressed views on the four outstanding points of difference. We have no doubt that these views, coming from such a source, will be taken fully into account by the two parties. We also greatly hope that, with the object of setting themselves a target, the parties will, as suggested by Mr. Graham, aim at 15 July 1952 as the date by which the process of demilitarization should be completed and the Plebiscite Administrator inducted.

As I see the position, Mr. Graham can now return to the sub-continent in pursuance of the existing mandate, no new resolution being necessary. May I refresh the memory of the Council by reading paragraph 2 of the Council's resolution of 14 March 1950 [*S/1461*]. That part reads as follows:

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"*The Security Council*...

"2. *Decides* to appoint a United Nations Representative for the following purposes who shall have authority to perform his functions in such place or places as he may deem appropriate:

"(a) To assist in the preparation and to supervise the implementation of the programme of demilitarization referred to above and to interpret the agreements reached by the parties for demilitarization;

"(b) To place himself at the disposal of the Governments of India and Pakistan and to place before those Governments or the Security Council any suggestions which, in his opinion are likely to contribute to the expeditious and enduring solution of the dispute which has arisen between the two Governments in regard to the State of Jammu and Kashmir;

"(c) To exercise all of the powers and responsibilities devolving upon the United Nations Commission by reason of existing resolutions of the Security Council and by reason of the agreement of the parties embodied in the resolutions of the United Nations Commission of 13 August 1948 and 5 January 1949;

"(d) To arrange at the appropriate stage of demilitarization for the assumption by the Plebiscite. Administrator of the functions assigned to the latter under agreements made between the parties;

"(e) To report to the Security Council as he may consider necessary submitting his conclusions and any recommendations which he may desire to make."

Mr. Graham, of course, in succeeding Sir Owen Dixon to this appointment under the resolution of 30 March 1951, has also inherited all the powers and responsibilities of the office of United Nations Representative and, as we see it, he is therefore fully entitled to return to the sub-continent if he believes it desirable and if the Council does not disagree.

To sum up, I earnestly hope that my colleagues in the Council will feel able to concur in our view that Mr. Graham should, as part of his continuing function as United Nations

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Representative for India and Pakistan, make a further visit to the sub-continent to continue his negotiations with the two Governments and that he should report the result of these negotiations to the Council by the end of March 1952.

If this is the general sense of the Council, I hope that the representatives of India and Pakistan will agree that these further negotiations should be undertaken and that they will be able to offer the full co-operation of their Governments to Mr. Graham in bringing them to a successful conclusion. Clearly the less controversy between the parties in the Council at this stage, the greater will be Mr. Graham's chances of finding a readiness in the sub-continent to conclude the settlement which we have all so long and earnestly awaited. May I therefore appeal to our colleagues from India and Pakistan to hammer out their differences round the conference table with Mr. Graham rather than at the Security Council table.

This time we must all hope that the hammering-out process will produce agreement rather than new lacerations. We must all try to show the world that the United Nations way, long and arduous though it be, is the right way to solve our mutual conflicts. We must all, by our help and our encouragement, do our best to preserve faith in our democratic institutions. I think that it is the privilege of India and Pakistan to be able to point the way to the happier world community of the future.

141. *Text of the speech made by Mr. Setalvad (India) in the Security Council meeting No. 572 held on 31 January 1952.*

It is nearly four years since I had the privilege of addressing this Council on the question of Jammu and Kashmir. I have since been a stranger to its deliberations on this question and I trust that I shall receive at the hands of the Council the indulgence due to me in the circumstances.

I am happy to state that the debate yesterday has been marked on the whole by brevity and the avoidance of the spirit or temper of controversy. In the observations I make I hope also to be brief and to avoid contentious ground.

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The representative of the United States said yesterday in the course of his remarks : "The issue is to find an agreed"—and I emphasize the word agreed—"not an imposed solution for the three questions." If I may so, this is true not only of the three questions arising out of Mr. Graham's report to which he referred but to the dispute as a whole. It is only by agreement between the parties that a solution at once satisfactory and lasting can be reached.

The three questions to which the representative of the United States, and also other speakers, referred are the following: first the fixation of a definite period for demilitarization; secondly, the scope of demilitarization and the quantum of forces that will remain at the end of the period of demilitarization; and thirdly, the day for the formal induction into office of the Plebiscite Administrator. I shall deal with each one of these in the course of my remarks, but before I do so I should like to deal with one or two points raised by certain members.

The first of these relates to the tentative plan of demilitarization of the state of Jammu and Kashmir which has been released in document S/2485, dated 21 January 1952. Apart from detailed proposals for demilitarization, this plan reproduces the twelve points communicated by Mr. Graham to the Prime Ministers of India and Pakistan on 7 September 1951 [*S/2375, annex 2*]. To remove misunderstanding. I should like to make it clear that what was communicated to our military advisers in writing of this plan is set out in full in the relevant quotation in paragraph 3 of the reply from the representative of India, dated 14 December 1951, which constitutes annex 6 to Mr. Graham's second report [*S/2485*] In addition, on 12 December, in the course of an informal conversation, our military advisers were also informed orally by General Devers of the strength of the forces that should be retained on each side of the cease-fire line after the end of the period of demilitarization suggested, namely 15 July 1952. The document as a whole, reproduced in annex 3 to document S/2485, was not at any time shown either to our representative or to our military advisers. I have thought it necessary to say this in order to remove any possible impression that, in

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his reply of 14 December 1951, to which I have already referred, our representative had kept back anything of the plan, clearly a stage in the process of demilitarization which had been discussed between our military advisers on the one hand and General Devers on the other. Honest differences of recollection between the Military Adviser of the United Nations Representative and our military advisers are, of course possible.

Several speakers mentioned the time that has clained since the Kashmir dispute first came before the Security Council and the urgency of finding a solution. I should like to make it clear that India is as anxious as any member of this Council that an early, equitable and peaceful solution be found. India was the first to declare that the people of the State of Jammu and Kashmir should freely decide their own future. This resolve of the Indian Government has been repeatedly affirmed by our Prime Minister and other spokesmen. As recently as in his letter of 11 September 1951 to Mr. Graham, the Prime Minister of India said [*S/2375 annex 3*] :

> "As regards paragraph 4" of Mr. Graham's letter of 7 September 1951 "the Govarnment of India not only reaffirms its acceptance of the principle that the question of the continuing accession of the State of Jammu and Kashmir to India shall be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations, but is anxious that the conditions necessary for such a plebiscite should be created as quickly as possible."

India has also repeatedly before this Council, the United Nations, Commission for India and Pakistan and the two United Nations representatives, Sir Owen Dixon and Mr. Graham, its readiness to carry out its obligations under the UNCIP resolutions of 13 August 1948 and 5 January 1949, in strict accord with the assurances given it agreement on the implementation of these resolutions has not yet been reached, I can assure the Council that this has not been due to any desire on the part of India to gain time.

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I shall now deal with the three questions emerging from Mr. Graham's second report to which different speakers have referred and which I have quoted from the speech of the representative of the United States. The first and third of these, namely a definite period for demilitarization and the date for the formal induction into office of the Plebiscite Administrator, could, I think, be settled without difficulty, provided that agreement were reached on the scope of demilitarization and the quantum of forces that would remain at the end of the period of demilitarization, and that the proramme agreed upon for this purpose were satisfactorily implemented.

The question of phasing should be easy of adjustment, provided that agreement is reached on the quantum and character of forces to be retained on each side of the cease-fire line. In the reply of our representative dated 14 December 1951 [*S/2448, annex 6*], our views on this subject have been made clear, and it does not seem necessary for me to recapitulate them. It will be observed from this document that we have agreed to reduce our forces, by the end of the period proposed for demilitarization, to 21,000. It has not been appreciated, I think, that not only does this figure include State forces but represents less than one sixth of the regular forces on the Indian side of the cease-fire line on 1 January 1949. It is also worth emphasizing that this force will have no supporting arms such as armour or artillery. This figure has been calculated with strict regard to the needs of the security of the State. The State Militia, which numbers only 6,000, is of the nature of a police force, needed for the maintenance of law and order, not a military reserve in any sense. For the other side of the cease-fire, line we have agreed to a civil armed force of 4,000 because we feel that this should be adequate for the maintenance of law and order in the *Azad* Kashmir area. We cannot conceive of any other risk against which regular armed force should be retained in *Azad* Kashmir.

I have already declared that India is anxious to settle the Kashmir dispute quickly and peacefully. This is so not only because India is anxious that the people of Jammu and

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Kashmir should have an opportunity, without further delay, to determine freely their own future, but also because we most earnestly desire to prepare the way our firm and lasting friendship with our neighbour, Pakistan. It is no less to our interest than to the interest of Pakistan, indeed to the interest of the world, that these two countries which have so much in common should live side by side in complete amity, each fully sovereign but both fully and whole-heartedly co-operating in the pursuit of the common tasks of peace and progress. This is no language of convention but the free expression of a deep and sincere sentiment. It seems to be the sense of the Council that negotiations should be continued under the auspices of the United Nations Representative to find a settlement of the differences that still divide India and Pakistan over certain parts of Mr. Graham's plan. India has no objection to this course, and would co-operate in finding a settlement in the spirit that I have just described.

Sir Mohammad ZAFRULLA KHAN (Pakistan) : May I, without impertinence, be permitted to say that Mr. Setalvad has more than fully carried out the assurance that he was pleased to give to the Council at the beginning of his address, that he would be brief and would keep out any matters of controversy. He was fully entitled to, and of course he has on some points, put forward his own point of view with regard to the matters that need still to be resolved. It will be fully appreciated by the Council that obviously those are the points to be resolved on which Pakistan has its own view, which it has already submitted both to the Council and to the United Nations Representative. I will not enter into any controversy upon those points. Those are exactly the points which will have to be dealt with by Mr. Graham in his further effort.

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142. ***Text of the speech made by Mr. Graham (United Nations Representive for India and Pakistan), in the Security Council meeting No. 605 held on 10 October 1952.***

As a supplement to the report to the Security Council dated 16 September 1952 [*S/2783 and Corr. 1*], the United Nations Representative makes this personal summary statement. This statement should be considered in connexion with all other previous reports to the Council and debates in the Security Council on the Kashmir question. This statement will set forth :

(1) The obstacles we have found in the way of the Governments of India and Pakistan hindering an agreement on a plan of demilitarization ;

(2) The twelve proposals made to overcome these obstacles ;

(3) The progress made by the parties in the acceptance of these proposals ;

(4) The revival of the difference over the meaning of "local forces" ;

(5) The several proposals made regarding the induction of the Plebiscite Administrator into office ;

(6) The several proposals made by the United Nations Representive regarding the number and character of forces to be left on each side of the ceasefire line at the end of the period of demilitarization ;

(7) An agreement on ten and part of another of the twelve proposals ; and

(8) Suggested alternative approaches to the one main remaining difference regarding the issue of number and character of forces.

Obstacles Found in the Way of an Agreement on Demilitarization

When we arrived on the sub-continent on 30 June 1951 we found the atmosphere heavily charged with the following factors :

(1) Allegations about the violations of the cease-fire.

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(2) Headlines about troop movements and counter troop movements close to the border of the State of Jammu and Kashmir ;

(3) Discussions and fears concerning the role of the constituent Assembly to be convened at Srinagar ; and

(4) Threats of war and rumours of war.

In the course of many consultations with the two Goverments, the United Nations Representative found additional differences regarding :

(5) The timing and amount of the disarming and disbanding of the *Azad* Kashmir forces in relation the withdrawals of the Indian forces ;

(6) The time required for a programme of demilitarization;

(7) The number and character of forces to be left each side of the cease-fire line at the end of the of demilitarization ;

(8) A possible danger to the cease-fire line incident possible fear which might arise out of a heavy responderance of armed forces on either side of the cease-fire line in the process of demilitarization ;

(9) The timing and co-ordination of appropriate with drawals, reductions, disarming and disbanding of forces, as the case may be, on the two side of the cease-fire line ;

(10) The timing of the induction of the Plebiscite Administrator into office ;

(11) The meaning of the phrase "final disposal" in the 5 January 1949 resolution of the United Nations Commission for India and Pakistan in relation to location or reduction of forces, and more lately :

(12) The meaning of phrase "local authorities" of the 5 January 1949 resolution.

The twelve Proposals made by the United Nations Representative for overcoming the Obstacles in the way of Demilitarization

To overcome the first four of the twelve obstacles genera-

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ted above, the United Nations Representative selected his first four proposals to decreasing the high tension between the two countries. Representative of a Government of India indicated that no agreement for demilitarization was possible because of the threats War. The representatives of the Government of Pakistan said that the delays in demilitarization as a condition for a free and impartial plebiscite caused at and talk of war among the people of Pakistan. We found that delays in demilitarization caused talk of war and at the same time talk of war caused delays in an agreement on a plan of demilitarization.

The United Nations Representative asked the two Governments for the following commitments :

The Governments of India and Pakistan

Propasal 1

Reaffirm their determination not to resort to force and to adhere to peaceful procedures and specifically pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of Jammu and Kashmir ;

Proposal 2

Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizen, organizations, publications and radio stations not to make warlike statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir ;

Proposal 3

Reaffirm their will to observe the cease-fire effective from 1 January 1949 and the Karachi Agreement of 27 July 1949 ;

Proposal 4

Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations.

The fifth obstacle was the question of the *Azad* Kashmir

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forces in relation to part II of the UNCIP resolution of 13 August 1948 and principles 4 (*a*) and (*b*) of the 5 January 1949 resolution. The resolution of 13 August 1948 made no reference to the "*Azad* Kashmir force". Part II of this resolution had the following provisions :

"A

"1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agree to withdraw its troops from that State.

"2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting.

"3. Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission.

"B

When the Commission shall have notified the Government of India that the tribesmen and Pakistani Nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation which was reported by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed upon with the Commission.

Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the minimum

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strength of its forces which in agreement with the Commission are considered necessary to assist local authorites in the observance of law and other. The Commission will have observers stationed where it deems necessary.

The Government of India will undertake to ensure that the Goverdment of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed".

The January 1949 resolution provided, regarded the *Azad* Kashmir forces and the Indian and State arms forces, principles 4 (*a*) and (*b*) as follows :

"(*a*) After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and state armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

"(*b*) As regards the territory referred to in A, 2 part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities".

The Government of India maintained that, in accepting the 13 August 1948 resolution on 20 August 1948 they were unaware of the large number and standing efficiency of the *Azad* Kashmir forces. They contain that if they had been so aware they would be insisted on the disarming and disbanding of these forces provided for in part II of the 13 August 1948 resolution.

In this matter the Government of Pakistain maintain that they stood on the resolution as written and contained.

The United Nations Commission, as the author of these two resoultions, held that the disarming and disbanding of the *Azad* Kashmir forces was not contemplated under the

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13 August 1948 resolution. However, the Commission assured the Government of India that it was contemplated that "large-scale disarming and disbanding of the *Azad* Kashmir forces" would be undertaken promptly in the implementation of the 5 January 1949 resoultion.

The dead-lock over this issue was an obstacle to an agreement on demilitarization during the mediation of the Commission in 1949, of General McNaughton later in 1949, of Sir Owen Dixon in 1950, and confronted us early in our negotiations in the summer of 1951.

Regarding this problem, the Commission itself, in its third interim report [*S 1430*], had observed (paragraph 250).

> "The conclusion to be drawn from the experience of the Commission during the Past year, and from the attitudes of the two Governments as regards the withdrawal problem, is clear : developments in the State during the past year necessitatate a modification in the original plan of demilitarization. Such a modification must treat the problem of demilitarization as a whole, eliminating all distinctions and comprising all questions concerning the final disposal of all armed forces in the State of Jammu and Kashmir."

Recognizing that that no progress had been made on this issue for three years, we sought to aid the parties in the matter by a new approach, conceiving demilitarization as a continuous process. The United Nations Representative came to the view, as the basis for an approach to the problem by the parties, that part II of the 13 August 1948 resolution and principles 4 (*a*) and (*b*) of the 5 January 1949 resolution should be considered as interdependent parts of a continuous process of demilitarization.

To this general end and specifically in order to break the dead-lock over the timing and amount of the disarming and disbanding of the *Azad* Kashmir forces, the United Nations Representative made proposal 5 as follows :

Proposal 5

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The Governments of India and Pakistan

Agree that subject to provisions of paragraph 11 below, the demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of 13 August 1948 and 5 January 1949 shall be effected in a single, continuous process.

To overcome four more obstacles, and as corollaries to a programme of demilitarization as a continuous process, the United Nations Representative made proposals 6, 7, 8 and 9 as follows :

Proposal 6

The Governments of India and of Pakistan

Agree that this process of demilitarization shall be selected during a period of ninety days, unless other period is decided upon by the representative of the Indian and Pakistan Governments referred to paragraph 9 below:

Proposal 7

The Governments of India and Pakistan

Agree that the demilitarization shall be carried such put a way that at the end of the period referred to paragraph 6 above the situation will be :

On the Pakistan side of the cease-fire line :

The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn ;

The Pakistan troops will have been withdrawn from the State ; and

Large-scale disbandment and disarmament of the *Azad* Kashmir forces will have taken place.

On the Indian side of the cease-fire line :

The bulk of the Indian forces in the State will have been been carried out.

Further withdrawals of reductions, as the case may be, the Indian and State armed forces remaining in the State after

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the completion of the operation referred to in (*b*) (i) above will have been carried out.

That at the end of the period referred to in proposal 6 of there will remain on the present Pakistan side of the cease-fire line a force of...civil armed forces, and the Indian side of the cease-fire line a force of...

The United Nations Representative left blank out in proposal 7 for the number of forces to be left each side of the cease-fire line to be filled in by the Governments as a precise basis for resolving the referance on this crucial issue.

Praposal 8

The Governments of India and Pakistan

Agree that the demilitarization shall be carried out such a way as to involve no threat to the cease-fire agreement either during or after the period referred to paragraph 6 above.

Proposal 9

The Governments af India and Pakistan

Agree that representatives of the Indian and Pakistan Governments, assisted by their military advisers, will work under the auspices of the United Nations, to draw up a programme of demilitarization in accordance to the provisions of paragraphs 5, 6, 7 and 8 above.

Next to proposal 7, proposal 10 was the most serious of the twelve proposals. Proposal 10 provided to fixing of a definite time and manner for the functions of the Plebiscite Administrator as follows :

Proposal 10

The Governments of India and Pakistan

Agree that the Government of India shall cause the Plebiscite Administrator to the formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above.

To make clear that, in connecting part II of the 13 August 1948 resolution and "the large-scale disarming and disbanding of the A*zad* Kashmir forces" and "the further reduction of

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the fndian forces" to consitute part of a continuous process of demilitarization, the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator remained with regard "to final disposal" of the remaining forces, proposal 11 provided as follows :

Proposal 11

The Governments of India and Pakistan

Agree that the completion of the programme of demilitarization referred to in paragraph 9 above will be without prejudice to the functions and responsibilities of the United Nations Reprepresentative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in sub-paragraphs 4 (*a*) and (*b*) of the 5 January 1949 resolution.

The Government of India contends "that both under the two United Nations Resolutions read together and according to the understandings with the Commission, the term 'final disposal' in sub-paragraph 4 (*a*) means only disposition. This is evident from the fact that UNCIP resolution of 13 August 1948 speaks of minimum forces required to assist the local authorities in the maintenance of law and order, which the Commission itself has interpreted to include adequate defence. The Government of India considers that it can never be contemplated that as a result of any subsequent reduction forces should be reduced to below the minimum has never used the term 'reduction' or 'withdrawal' of Indian forces with reference to sub-paragraph 4 (*a*) ; it has, on the other hand, always insisted that sub-paragraph 4 (*b*) contemplated disbandment and disarming of *Azad* Kashmir forces and other armed forces on the Pakistan side of the cease-fire line. This distinction was made by the Commission with reference to a difficulty of its own creation by giving an assurance to the Pakistan Government, without the knowledge of the Government of India, that it did not contemplate the disbandment and disarming of *Azad* Kashmir forces at the stage part II of the 13 August 1948 resoultion. Moreover, once it is accepted in principle that demilitarization contemplated under the resolutions of August 1948 and 5 January 1949 should be effected in a single continuous process, no interference with the strength of forces

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in the State is possible at the plebiscite stage. Furthermore, if the element of reduction or withdrawal of forces at the plebiscite stage according to the Pakistan Government's interpretation of sub-paragraphs 4 (*a*) and (*b*) of the resolution of 5 January 1949, is brought on to the demilitarization stage, the process of demilitarization must be deemed to have exhausted itself and the United Nations Representative and the plebiscite Administrator can at that stage deal only with question of disposition".

The Government of Pakistan contends "that the terms 'final disposal of forces' was used by the UNCIP both in sub-paragraph 4 (*a*) of its resolution of 5 January 1949 with respect to Indian and State armed forces, and in sub-paragraph 4 (*b*) of the same resolution in respect of the *Azad* Kashmir forces. It could only mean the same thing in both cases. The Vice-Chairman of the Commission informed the Foreign Minister of Pakistan on 25 December 1948 that the object of paragraph 4 of the Commission's draft proposals on 11 December 1948 (which subsequently became the Commission's resolution of 5 January 1949) was to ensure a large-scale reduction and disarmament the exact scope of which will be determined by the exact scope of which will be determined by the Commission and the Plebiscite Administrator, in consultation with the authorities concerned". (See memcrandum appended to annex 5 to the second report of UNCIP [*S/1195*].) The term 'final disporal' therefore covers reduction by withdrawal or disbandment as well as location or stationing of the armed forces concerned. If it is contended that 'final disposal' means only the location or stationing of forces, then there is, by the same token, no provision in the UNCIP resolution for the reduction or disbandment of the *Azad* Kashmir forces either".

To prevent a later dead-lock over differences regarding an agreed programme of demilitarization proposal 12 provided as follows :

Proposal 12

The Governments of India and Pakistan

Agree that any differences regarding the programme of

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demilitarization contemplated in paragraph 9 above will be referred to the Military Adviser of the United Nations Representative, and, if disagreement continues, to the United Nations Representative, whose decision shall be final.

It is the view of the Government of Pakistan that paragraph 12 of the truce proposals enables the United Nations representative to determine final points of difference relating to technical details conncerning the actual implementation of the agreed demilitarization programme. This is not enough, Sub-paragraph 2 (*a*) of the Security Council's resolution of 14 March 1950 [*S/1461*] authorized the United Nations Representative to interpret the agreements reached by the parties for demilitarisation. There should be a similar provision in the truce agreement. The experience of the last four years underlines the necessity for such a provision. Without it, there would be no means of resolving dead-locks that might arise.

It is the view of the Government of India that "the reference in paragraph 12 of Mr. Graham's letter is *not* to differences arising in the process of drawing up a programme of demilitarization but only to differences upon technical details concerning the actual implementation of the agreed programme. On this understanding the answer to the question is in the affirmative".

In line with his policy maintained from the outset of his mission that any assurance given to the parties could only be given by the United Nations Representative on the written record with the equal knowledge of both Governments, the United Nations Representative gave the assurance that he was not seeking to arbitrate matters of substance and would confine his decisions to those matters of technical details concerning the actual implementation of the agreed programme.

III. Progress in the Acceptance of the twelve proposals

At the conclusion of our consultations with the two Governments on the sub-continent we were able, in our report to the Security Council of 15 October 1951 [*S/2375*], to report agreement on the first four of the twelve proposals.

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At the conclusion in December of the negotiations in Paris, we reported to the Security Council on 18 December 1951 [*S/2448*] additional agreements on proposals 8, 9, 11 and 12.

The suggestion made by the United Nations Representative that the Plebiscite Administrator designate be now associated with him not for negotiations but for consultation regarding the prospective joint responsibilities of the Representative and the Administrator and to make studies, was not considered advisable by the two Governments. This suggestion was therefore not carried out.

The United Nations Representative considered that it would facilitate the preparation for the plebiscite to have the Plebiscite Administrator designate make studies as soon as possible regarding the conditions and requirements for a free, fair and secure plebiscite. Your representative has the view that these studies by the Plebiscite Administrator are basic to the consideration of the whole complex problem of the plebiscite. Since such studies as are necessary could best be made on the ground and since both Governments consider it inadvisable for him to be consulted in an official capacity before his induction, it is my view that it is important that he be inducted as soon as possible and therefore it is important that an agreement on a plan of demilitarization be agreed upon as soon as possible so that he can get on with his studies on the ground.

In the negotiations at the United Nations Headquarters in the summer of 1952 the military advisers of the two Governments, under the chairmanship of the United Nations military adviser, made precise their differing definitions of the word "bulk" and the words "State armed forces" as used in the resolutions of 13 August 1948 and 5 Januasy 1949, and the estimated number of their own armed forces as they existed at the time of the cease-fire on 1 January 1949.

There remained ontstanding four of the twelve proposals upon which agreement had not been reached including the two most basic of all the twelve proposals : first, the time of the

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induction into office of the Plebiscite Administrator; and secondly, the number and character of forces to be left on each side of the cease-fire line at the end of the period of demilitarization.

In view of the continuing dead-lock the United Nations Representative made definite suggestions regarding the two most basic differences in revised proposals presented on 16 July, 2 September and 4 September 1952. On 2 September and 4 September 1952 he transferred the substance of the original proposal 9 to the provisional clause at the end of the twelve proposals, that clause to read as follows :

Provisional clause. This agreement shall enter into effect when the two Governments of India and Pakistan have approved a programme of demilitarization in conformity with paragraphs 5, 6, 7 and 8 above, the draft of such programme to be drawn up in meetings between the representatives of the Governments of India and of Pakistan assisted by their military advisers under the auspices of the United Nations. The first meeting shall take place within two weeks after the signature of the above agreement.

In the revised versions of 2 September and 4 September 1952 the new proposal 9 was made as follows :

2 September

Revised proposal 9

The Governments of India and of Pakistan

Agree that pending a final solution the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. The local authorities shall undertake the fulfilment of such duties as are necessary for the observance within that territory of the provisions of the Karachi Agreement of 27 July 1949. (That is, the cease-fire agreement.)

4 September

Further revised proposal 9

The Governments of India and of Pakistan

Agree that, pending a final solution, the territory

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evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the United Nations.

IV. Revival of the difference over the meaning of "Local Authorities"

The difference over the meaning of "local authorities" confronted the first United Nations Commission in the summer of 1948 and persisted during the mediation of General McNaughton and during the mediation of Sir Owen Dixon.

The Government of India contends that the State of Jammu is a legal entity, that the sovereignty of India is based on the Instrument of accession constitutionally executed, and that there can be no *de jure* or *de facto* recognition of the *Azad* Kashmir Government.

The Government of India holds "that the administration of this area would, under paragraph 3 of part II of the resolution of 13 August 1948, vest in local authorities to be established or reorgnized for the purpose; to those local authorities under the same resolution only local administrative functions have been assigned. In the very nature of things such authorities can be in charge only of local law and order whether in the area or with reference to the cease-fire line. To give them any armed force equivalent to troops would not be consistent either with their status or with their functions and would be a violation of the sovereignty of the Union of India and the Jammu and Kashmir State. In the very nature of things, therefore, these local authorities can be entrusted only with civil armed force".

The Government of Pakistan holds that

"Paragraph 3 of section A of part II of the UNCIP resolution of 13 August 1948 provided that 'pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission'.

"In its letter dated 3 September 1948, the Commission defined the 'evacuated territory' to mean 'those territories

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in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command (first report of UNCIP, paragraph 90). As a result of the demarcation of the cease-fire line all territories situated on the Pakistan side of the cease-fire line should be regarded as 'evacuated territory'.

"The United Nations Commission told the Foreign Minister of Pakistan that by the term 'local authorities' it meant the *Azad* Kashmir Government, though the Commission could not accord *de jure* recognition to a revolutionary authority such as the *Azad* Kashmir Government. The Commission also gave the assurance that no official of the Government of India, or of the Maharaja's Government, would be permitted to enter the evacuated territory. (See Summary record of the meeting held by UNCIP on 31 August 1948.)

"As regards the term 'surveillanee', the UNCIP said that it meant neither supervision nor control. The Chairman of the Commission explained that 'all the Commission had wanted was to find a definition for something which would release the Commission from taking too heavy responsibilities on its shoulders. The word "surveillance" was chosen as the mildest expression for something which would not imply spontaneous control or interference with the local authorities unless the truce is violated'. (See summary record of the meeting held by UNCIP on 2 September 1948.) The Commission also agreed that its surveillance would not extend to Gilgit.

"The Pakistan delegation took note of the United Nations Representative's statement on 2 September 1952 that he understood the term 'local authorities' to mean 'the persons there who exercise effective authority and that as regards 'surveillance' over the local authorities the United Nations Representative would seek to exercise it through the appointment of civil and military observers."

In Geneva the representatives of the two Governments agreed on a revised proposal 9 to read as follows :

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Revised proposal 9

The Governments of India and of Pakistan

Agree that pending a final solution the territory evacuated by Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. Effect shall be given to this by the time the process of demilitarization mentioned in paragraph 6 has been completed on both sides of the cease-fire line.

V. The several alternative proposals made by the United Nations Representative for Negociations regarding the induction of the Plebiscite administrator into office

In the original twelve proposals of 11 September 1950 the United Nations representative proposed on the sub-continent that the Plebiscite Administrator be inducted into office not later than the last day of the ninety-day period of demilitarization.

The Government of Pakistan agreed.

The Government of India then "doubted whether during the period of ninety days the firm will to settle the Kashmir question peacefully would have replaced in Pakistan the spirit and temper of war prevailing at the present time" (that is, at that time). The Government of India considered "that the proposal concerning the appointment of the Plebiscite Administrator should be omitted from the twelve proposals and be included in proposals having to do specifically with the holding of the plebiscite".

The United Nations Representative proposed in Paris in December 1951 that the Plebiscite Administrator be inducted into office on 15 July 1952.

The Government of Pakistan agreed.

The Government of India held that if agreement could be reached on the number and character of forces to be left on each side at the end of the period of demilitarization the other remaining differences (which included the timing of the induc-

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tion into office of Plebiscite Administrator) could be settled without difficulty.

In New York, the United Nations Representative suggested on 16 July 1952, for consideration in the conference proposed to be held in Geneva, that the Plebiscite Administrator be inducted into office not latter than the final day of the demilitarization period (ninety days) referred to in proposal 6.

The view of the Government of India is "that the Plebiscite Administrator can properly function only after (i) the process of demilitarization is completed and the United Nations representative is satisfied that peaceful conditions have been restored and (ii) the local authorities are recognized and are functioning on the Pakistan side of the cease-fire line under the surveillance of the United Nations Representative. In the interests of agreements, however, the Government of India would be prepared to agree to his induction on the last day of period of demilitarization provided that it is completed according to plan and is exhaustive so that the Plebiscite Administrator would, as regards the forces remaining in the State after demilitarization is fully implemented, be concerned only with their disposition".

It is the view of the Government of Pakistan "that second in importance only to the question of demilitarization is the date by which the Plebiscite Administrator will be inducted into office. Under the UNCIP resolution of 5 January 1949, the Plebiscite Administrator has to be inducted into office as soon as the tribesmen, Pakistan volunteers and the Pakistan Army and the bulk of the Indian Army have been withdrawn. The United Nations Representative's proposal that the Plebiscite Administrator should be appointed not later than the last day of the demilitarization programme represents a big concession to the Indian point of view. Nevertheless, Pakistan is prepared to accept it as a part of the twelve truce proposals suggested by the United Nations Representative".

VI. The several alternative proposals made by the United Nations Representative regarding the number and character of forces to be left on each side of the cease-

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fire line at the end of the period of Demilitarization

In the original twelve proposals of 11 September 1951 the United Nations representative suggested in proposal 7 "that at the end of the period (90 days) referred to in paragraph 6 above there will remain on the present Pakistan side the cease-fire line a force of...civil armed forces, and on the Indian side of the cease-fire line a force of...".

The position of India was follows : "As regards the civil armed forces to be maintained on the Pakistan side of the cease-fire line at the end of the period agreed upon in the terms of paragraphs 6 and 9, the Government of India would agree to a force of 4,000, organized, equipped and composed as recommended to UNCIP in item C of the memorandum transmitted to the UNCIP under cover of a letter dated 13 April 1949 by the Secretary-General in the Ministry of External Affairs of India ; that is, the forces (of 4,000) should consist of persons normally resident in *Azad* Kashmir territory half of whom should be followers of *Azad* Kashmir and the other half persons who are not followers of *Azad* Kashmir. This force should be commanded by United Nations officers or 'locals' and not by Pakistan officers.

The Government of Pakistan felt "that a force of not more than four infantry battalions (with the necessary adminis-tive units) should remain on each side of the cease-fire line at the end of demilitarization programme envisaged in paragraph 7". The Pakistan Government, however, expressed the view "that some slight difference in the strength of description of the two forces should not stand in the way of an agreement being reached, so long as the forces on each of the cease fire line were of the order indicated above".

In effect, proposal 7, as it stood, did not provided the basis for an agreement.

In the Paris sessions of December 1952, the Government of India emphasized that the Indian troops remaining in the State of Jammu and Kashmir at the end of the period of demilitarization under this plan were over 7,000 less than the

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minimum stated in paragraph 8 of the Prime Minister's letter of 11 September.

This proposed remainder of 21,000 was estimated by India to be a reducation of over 80 per cent of the Indian and State armed forces present in the State at the time of the cease-fire on 1 January 1949.

The Government of Pakistan maintained its position that a force of no more than four infantry battalions (with the necessary administrative units) should be left on each side of the cease-fire line. The Pakistan Government was, however, prepared to agree that "so long as the forces on each side of the cease-fire line are of the order indicated above, some slight difference in the strength of description of the two forces should not stand in way of an agreement being reached."

The disparity between the number and character of forces proposed by the parties continued to be wide. The United Nations Representative revised the relevant part of proposal 7 to read as follows: "so that on the date referred to in paragraph 6 above there will remain on each side of the cease-fire line the lowest possible number of armed forces based in proportion on the number of armed forces existing on each side of the cease-fire line on 1 January 1949".

This revised proposal also did not provide the basis for an agreement.

In New York the United Nations Representative, in his revised proposals 16 July 1952 [*S/2783, annex 3*], suggested for the consideration of the two Governments, in a conference proposed to be held in Geneva, brackets of numbers in proposal 7 as follows:

(*a*) *On the Pakistan side of the cease-fire line*:

(i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;

(ii) The Pakistan troops will have been withdrawn from the State;

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(iii) Large-scale disbandment and disarmament of the *Azad* Kashmir forces will have taken place ; so that at the end of the period of demilitarization there shall be an armed force of ...[the United Nations representative suggests, as a basis for discussion, figures ranging from 3,000 to 6,000] ;

(iv) The remaining *Azad* Kashmir forces will have been separated from the administrative and operational control of the Pakistan High Command and will be officered by neutural and local officers under the surveillance of the United Nations.

(*b*) *On the Indian side of the cease-fire line* :

(i) The bluk of the Indian forces in the State will have been withdrawn ;

(ii) Further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in sub-paragraph (*b*) (i) above will have been carried out ; so that at the end of the period of demilitariation there shall be an Indian Army force of ...[the United Nations Representative suggests, as a basis for discussion, figure ranging from 12,000 to 18,000].

These numbers did not include the Jammu and Kashmir Militia and the Gilgit and Northern Scouts.

The proposed brackets of numbers (12,000 to 18,000 on the Indian side and 3,000 to 6,000 on the Pakistan side of the cease-fire line) not having provided the basis for an agreement, the United Nations Representative, in the further revised proposals on 2 September 1952, suggested for consideration by the representatives of the two Governments an armed force of 6,000 on the Pakistan side and an Indian and State army of 18,000 on the Indian side of the cease-fire line.

Since these two definite figures did not provide the basis for an agreement, the United Nations Representative then proposed on 4 September 1952 principles or criteria by which the

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number and character of forces could be determined, so that :

On the Pakistan side at the end of the period of demilitarization there shall be the minimum number of forces that are required for the maintenance of law and order and the cease-fire agreement, with due regard to the freedom of the plebiscite ; and

On the Indian side there shall be the minimum number of Indian and State armed forces that are required for the maintenance of law and order and of the cease-fire agreement, with due regard to the security to the State and the freedom of the plebiscite.

Since this suggestion did not provide the basis for an agreement, the above principles or criteria were revised in other draft proposals on which agreement was not reached.

The position of the Government of India regarding the character and number of forces to remain on each side of the cease-fire line was summarized in Geneva as follows [*S/2783, annex* 5] :

"1. *Character and quantum of forces to remain on each side of the cease-fire line :*

"(I) The position of the Government of India as regards its own forces is as follows :

"(*a*) According to paragraph 4 of part II of the UNCIP resolution of 13 August 1948, the Government of India must have the minimum forces required to assist the local authorities, i.e., the Jammu and Kashmir Government, on the India side of the cease-fire line in the maintenance of law and order ; this term, according to the Commission, includes adequate defence.

"(*b*) Under sub-paragraph 4 (*a*) of the UNCIP resolution of 5 January 1949, the disposal of India and State armed forces on our side has to be with due regard to security, which in its connotion has a wide significance than law and order.

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"(*c*) The Government of India is constitutionally responsible for the defence of the Jammu and Kashmir State, which includes aid to the civil power.

"(*d*) Having regard to these commitments of internal and external security, the responsibilities under the cease-fire agreement and the fact that Pakistan would be free to locate its forces as it likes within its own border, which for some length are common with the borders of the Jammu and Kashmir State and for still greater length within practically striking distance of the cease-fire line and important areas of the Jammu and Kashmir State, the Government of India considers that a minimum force of 28,000 is required.

"(*e*) However, on complete disbandment and disarmament of the *Azad* Kashmir forces and as a further gesture towards a settlement, it is prepared to effect a further reduction of 7,000, but it is impossible to reduce this absolute minimum figure of 21,000.

"(*f*) The Government of India will in no circumstances be prepared to include the Militia in these calculations. The Militia is a special armed police force which is under the administration of the Jammu and Kashmir Government for its normal law and order responsibilities and is only temporarily, for the period of emergency, under the operational control of the Indian Army.

"(II) The position of the Government of India as regards forces on the Pakistan side of the cease-fire line is as follows :

"(*a*) The *Azad* Kashmir Forces and the Gilgit and Northern Scouts have been newly raised or greatly augmented during the period of Pakistan's aggression. This has been done in violation of the Commission's assurance that Pakistan would not be allowed to consolidate its position to the disadvantage of the State. They are administratively and/or operationally under the control and direction of the Pakistan High Command. For these reasons they are indistinguishable from the Pakistan regular

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troops and must be disband and disarmed. This is necessary not only to honour the assurances given but also to restore peaseful and normal conditions in, and to facilitate the return of the refugees to this area.

"(*b*) The administration of this area would, under paragraph 3 of part II of the resolution of 18 August 1948, vest in local authorities to be established or recognized for the purpose ; to these local authorities, under the same resoultion, only local administrative functions have been assigned. In the very nature of things such authorities can be in charge only of local law and order whether in the area or with reference to the cease-fire line. To give them any armed force equivalent to troops would not be consistent either with their status or with their functions and would a violation to the sovereighty of the Union of India and the Jammu and Kashmir State. In the very nature of things, therefore, these local authorities can be entrusted only with a civil armed force.

"(*c*) The Government of India considers that, having regard to all the circumistance of the case, a civil armed force of 4,000 would be on the liberal side considering the pre-aggression strength of similar forces policing this area. However, they are prepared to consider an appropriate increase to provide for the needs of northern areas or should the United Nations Representative, under whose surveillance these forces would be operating, make out a case that this strength is inadequate.

"(*d*) Having regard to the functions these forces are to discharge and the conditions of a fair and impartial plebiscite, these forces should consist of an equal proportion of *Azad* Kashmir and other elements. The Government of India would be prepared to agree to a suitable readjustment of the armed and unarmed portion of this force.

"(*e*) The civil armed force should be under netural and local officers.

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"2. *Principles for the determination of forces to be left on either side of the cease-fire line* :

The Government of India considers that the principles enumerated in sub-paragraph 7 (*a*) (iii) and 7 (*b*) (ii) of Mr. Grahnm's proposal of 4 September 1952, were conceived in the right spirit having regard to the two UNCIP resolutions. As a basis for the evolution of a suitable definition of functions of forces on both sides of the cease-fire line they contained the germs of a settlement but despite several efforts to evolve a suitable draft in terms of the language used in the Commission's resolutions no understanding could be reached with the Pakistan Government. Since the evolution of such principles is basis to the question of the character and quantum of forces, the Government of India would point out that while the Commission's resolutions acknowledge its responsibility in this repect in specific broad terms, the use of the term 'local authorities', the provision for the surveillance of the United Nations Commission, and the fact that these local authorities have to carry on the mere administration of this area leave no doubt whatsoever that their law and order responsibilities are of a purely local character. The Government of India cannot accept any equation of its responsibilities with the local authorities on the Pakistan side of the cease-fire line or agree to anything more than a local character to the maintenance of public order in that area by the local authorities. It would observe that constitutionally the defence of the entire State of Jammu and Kashmir is the concern of the Government of India and it alone is entitled to maintain a military armed force for the purpose. This is the only position consistent with the assurance given and the practice observed hitherto by the United Nations authorities of giving recognition to the sovereighty of the Indian Union and the State which derived originally from the Instrument of Accession and has since been embodied in by Constitution of India."

The position of the Government of Pakistan regarding the number and character of forces to remain on each side of the cease-fire line has been summarized as follows [*S 2783, annex 6*] :

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(1) *Proposals of 16 July 1952*

"Pakistan considers that after the processes outlined in paragraph 7 of the United Nations Representative's truce proposals of 16 July 1952 have been carried out, there should remain on each side of the cease-fire line only the minimum forces necessary for the maintenance of law and order and the preservation of the cease-fire line.

"...

"The UNCIP resolutions contemplated the retention of some armed forces on both sides of the cease-fire line for the purposes specified above. The character of the forces must obviously, be the same on both sides of the cease-fire line.

"There is no warrant in the UNCIP resolutions for the appointment of 'neutral' officers in command of the reduced *Azad* Kashmir forces. This proposal is also inherently unworkable. There is no shortage of suitable local officers to command the reduced *Azad* Kashmir forces".

(2) *Proposals of 2 September 1952*

"Pakistan considers that the United Nations Representative's proposal that at the end of the demilitarization programme contemplated in paragraph 7 of the proposals, there should remain an armed force of 18,000 (exclusive of 6,000 Militia) on the Indian side, and an armed force of 6,000 (exclusive of 3,500 Scouts) on the Pakistan side leaves too many soldiers in the State. Before partion, the Maharaja's Government managed with less than a quarter of the forces suggested by the United Nations Representative (8,000 as against 33,500).

"The ratio on the date of the cease-fire was 5 to 4 in India's favour according to the Government of Pakistan, and 7 to 5 according to General Jacob Devers, the Military Adviser to the United Nations Representative."

(3) *Proposals of 4 September 1952*

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Pakistan fully agreed with the United Nations Representative that every effort should be made at the Conference itself to agree on the number and character of forces which should remain on each side of the cease-fire line at the end of the demilitarization programme. Failing this, the Conference should at least agree on the guiding principles for determining the number and character of force.

"The Pakistan delegation felt that the words 'with due regard to the freedom of the plebiscite' used in sub-paragraph 7 (*a*) (iii) and the pharse 'with due regard to the security of the State and the freedom of the plebiscite' used in sub-paragraph 7 (*b*) (ii) of the draft proposals should be deleted. The object of this amendment was to avoid the recurrence in the Military Sub-Committee of the political controversies which had held up progress in the main conference itself. If this amendment had been accepted, Pakistan would not have insisted on further reduction of forces under sub-paragraph 4 (*a*) and (*b*) of the 5 January 1949 resolution, and would have been satisfied with the disposition of all remaining forces by the United Nations Representative and the Plebiscite Administrator, in consultation with the respective authorities, and with due regard to the security of the State and the freedom of the plebiscite.

"Subject to the above observations, and some drafting changes, the Pakistan delegation was prepared to accept the United Nations Representative's draft proposals of 4 September 1952."

VII. Agreement on ten of the twelve revised proposals and Partial agreement on another

To quote from our report of 16 September 1952 [*S/2783*] submitted to the Security Council :

"The revised proposals of 4 September were agreed upon by the representatives of India and Pakistan to the following extent :

"(i) Proposals 1, 2, 3, 4, 5, 6, 7, (*a*) (i) and (ii), 7 (*b*) (i),

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8, 9, 10, 11, 12 and the provisional clause; with the redrafting of paragraphs 5, 6 and 9 as follows :

" '5. Agree that the demilitarization of Jammu and Kashmir contemplated in the United Nations resolutions of 13 August 1948 and 5 January 1949 shall be effected in a single continuous process ;

" '6. Agree that this process of demilitarization shall be completed during a period of ninety days, starting from the date on which the programme of demilitarization referred to in paragraph 7 below is approved by the Governments of India and Pakistan, unless another period is decided upon by the two Governments :

" '9. Agree that pending a final solution the territoty evacuated by Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. Effect shall be given to this by the time the process of demilitarization mentioned in paragraph 6 has been completed on both sides of the cease-fire line.'

"(ii) Concerning paragraph 12, the representative of India accepted it with the understanding that the differences referred to by the United Nations Representative should be only on technical details referring to the actual implementation of the agreed programme.

"(iii) In regard to sub-paragraphs 7 (*a*) (iii) and 7 (*b*) (ii)"—on which an agreement has not been reached—"the remaining difference in position of the Representatives has been stated in paragraph 25.

"(iv) Paragraph 11 of the proposals was deleted, to be substituted with another one to be agreed upon by the two Representatives, connected with the definite wording of paragraph 7 and with the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator in accordance with sub-paragraphs 4 (*a*) and (*b*) of the UNCIP resolution of 5 January 1949."

VIII. Suggested alternative approaches to the remaining differences on the demilitarization proposals

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In seeking to carry out the responsibilities entrusted to him by the Security Council, namely, to aid the parties in reaching an agreement on a plan of demilitarization, the United Nations Representative proposed a twelve-point programme of demilitarization as one step in the solution of a complex problem. He wishes to make clear to the members of the Council that the narrowing of the differences on the twelve-point programme to one main point, upon which the whole plan depends, emphasizes the depth of the difference on this point. As we have sought to remove many obstacles, surmount boulders, and to narrow and more precisely to define the differences, the remaining difference on the issue of the number and character of forces is still deep. It is related to the differing conceptions of the two Governments, often set forth—and I cite the interim report of UNCIP (*Official Records of the Security Council, Fourth Year, Special Supplement No. 7*, document S/1430/Rev. 1, paras. 200-202) and the report of the United Nations Representative for India and Pakistan to the Security Council (document S/2375 and Corr. 1, 15 October 1951, para. 35)—relating to first, the status of the State of Jammu and Kashmir, secondly, the nature of the responsibilities of the appropriate authorities on each side of the cease-fire line after demilitarization, and thirdly, the obligations of the two Governments under the two resolutions of 13 August 1948 and of 5 January 1949 with the provisions for a plebiscite. Upon the acceptance of definite provisions for a plebiscite came the cessation of fighting. Under the two resolutions of 13 August 1948 and 5 January 1949 the consideration of the conditions and requirements for a free, fair and secure plebiscite would proceed in part from the studies of the Plebiscite Administrator.

Towards reaching an agreement on the remaining difference on proposal 7, the United Nations Representative made his suggestion for alternative approaches either through the establishment of the number and character of forces to be left on each side of the cease-fire line at the end of the period of demilitarization or through the declared policy that the number and character of such forces should be determined in

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accordance with requirements of each area and, accordingly, that principles or criteria should be established which should serve as guidance for the civil and military representatives of the Governments of India and Pakistan in the meeting contemplated in the provisional clause of the revised proposals.

The settlement of the Kashmir dispute involves the preservation of the existing cease-fire line, a proposed agreement on demilitarization, and certainly not less important, the requirements and conditions for holding the plebiscite. The peaceful settlement of the whole complex Kashmir problem is important for the State, for both nations, and for all nations.

To fail to solve the Kashmir problem rather than to bridge present differences is inconceivable as a practical policy in the face of a situation heavily charged with long-accumulated high potentials. The peoples of the sub-continent have the opportunity to challenge the peoples of the world with their own adventurous programmes for both individual freedom and the general welfare, for both national security and world peace. For the peoples of the sub-continent to fail to solve peacefully the Kashmir problem and to drift or stumble into greatly increased danger rather than bridge the chasm which divides them would be a tragedy for the two nations and for the people of the world who look with hope to the humane leadership of two great peoples. Programmes which now provide sustenance, freedom and hope for hundreds of millions of people might give to way violence. At this important and critical time in the history of the sub-continent, an agreement on Kashmir could be a great demonstration for peace by peace-minded leaders, whose position for peace would be reinforced by an agreement. In case of conflict and destruction, fear and hunger might stalk the villages, where most of the people live in the hopeful lands between the mountains and the seas. Violence and then tyranny might seek to feed on hunger and hatred while humane programmes were engulfed in the deep catastrophe.

The values of an early settlement of this dispute would, in my view, be tremendous for the 4 million people of the State, the 400 million people of the two nations involved, and the people of the world.

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A settlement of this dispute would mean that the status of the people of the State would be finally determined not by the sovereignty of princes but by the sovereignty of the people, not by the might of armies but by the will of the people, not by bullets but by efforts, through the sell-determination of peoples by the democratic method of an impartial plebiscite connected with due regard for the security of the State and the freedom of the plebiscite under the auspices of the United Nations.

A settlement of this dispute might to help to settle the dispute over evacuee property. It might thus help bring adjustment of the claim of the hosts of refugees who, in their tragic trek and counter-trek from one country to the other, left behind their homes and their propety and yet carried in their minds and hearts the horrors of mass slaughter. These adjustments in belated justice would assuage some of the pain of their losses and memories and contribute much to raising the morale and increasing the productive energies of millions of people in both nations.

Moreover, the settlement of the Kashmir dispute would contribute much to the relief of the fears and tensions over canals and rivers from which come the waters for the fields, and the hopes of food and opportunity for millions of people. A settled basis for the co-operative development of the natural resources of the rivers and their wide valleys would make more promptly and broadly possible the connecting of the engines of production, transportation and communication with nature's ceaseless cycle of mighty but unharnessed power between the sun and the seas, between the mountains, the snows, the rains and the rivers, between the clouds and the lands of the vast subcontinent.

Food and freedom, goods and equal opportunity, health and education, dynamic hope and the liberation of the human spirit for the good life of these great, free societies can thus become the way of life of the peoples of India and Pakistan with all the meaning to the peoples of the world therein involved.

The co-operation of India and Pakistan in the demilitari-

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zation of the State of Jammu and Kashmir, in the self-determination of the people of the State and in the allocation of larger budgets of constructive programmes, might become one of the turning-points in the history of our times towards the co-operation of all nations for the larger self-determination of all peoples ; towards universal disarmament and the harnessing of atomic power for the moral equivalent of war in the campaigns against poverty, illiteracy and disease; and towards the more effective co-ordination of the national programmes, the "Point Four" programme, the Colombo Plan and the United Nations technical assistance programme for advances in agriculture and industry, health and education, freedom and peace, for all people.

On the sub-continent of Asia there is a juncture of the forces of strategic geography, historic peoples, high traditions, ancient religions, humane leadership, fresh currents of national 'freedom and democratic power of high potential for peace or conflict, weal or woe, in the present world. May the prompt, fair and peaceful settlement of the Kashmir dispute by the Governments of India and of Pakistan set the example, provide the leadership and point the way from fear and conflict to peace and hope for the peoples of the earth.

The PRESIDENT (*translated from Spanish*) : before giving the floor to the representative of Pakistan, who has asked to speak, I should like to bank the United Nations Representative for India and Pakistan for the very clear, complete and abjective statement he has just made. I think that in doing so I express the feeling of all members of the Council. In particular, I believe that members of the Council will consider that the way in which you have set forth the basic points of view of each of the parties to the dispute throughout the various stages of your mission as mediator, and the way in which you described the course of your work as mediator, is of positive use to them in making up their minds on the settlement of this complex question.

Mr. BOKHARI (Pakistan) : At this stage, my delegation is not in a position to offer any comments to the fourth report

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of the United Nations Representative for India and Pakistan, which, of course, is to be read jointly with the very exhaustive statement made by Mr. Graham this afternoon. I have no comments to make beyond expressing the appreciation of my Government for the integrity, the perseverence and the very high sense of responsibility with which Mr. Graham has tackled his task. This tribute applies equally to the team of very able and experienced civil and military advisors who assisted him in his work.

The statement we heard from Mr. Graham this afternoon is of fair length, and we should like to have an opportunity to study it extremely carefully, and so I think that a recess of a few days would be in order. I therefore request the President, subject to his convenience and to the convenience of the other members of the Council, to call another meeting very shortly. In the meantime, all of us can apply our minds to the words and suggestions and observations of Mr. Graham.

For the present, for the reasons I have given, I propose that this meeting now be adjourned.

143. Text of the speech made by Sir Gladwyn Jebb (U K.) in the Security Council meeting No. 606 held on 6 November 1952.

The object of my intervention this afternoon will be to explain as best I can the draft resolution which has now been distributed to all members of the Council in document S/2839, dated 5 November 1952. In what I say I shall not, of course, be speaking on behalf of my United States colleague, who has associated himself with this draft resolution, but I hope that what I say will be agreeable to him.

Now that we are about to resume our deliberations on the India-Pakistan question, I am sure of one thing : that I shall be giving expression to the views of most of the governments represented round this table when I say how deeply we regret that no solution has yet been found to the differences between the Government of India and the Government of Pakistan with

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regard to the future accession of the State of Jammu and Kashmir.

For its part, Her Majesty's Government in the United Kingdom has always recognized the great delicacy of the issues involved in this question. At the same time, however, it has always been encouraged by the firm agreement of the two governments concerned on the principles to be followed in order to achieve a settlement. It has therefore always hoped, and it continues most strongly to hope, that agreement can be reached on how these principles can be put into effect—in other words, on how the inhabitants of the State of Jammu and Kashmir can be enabled most fairly and effectively to express their wishes on the question whether their State should accede to the Indian Union or to Pakistan.

In a world beset by so many intractable and seemingly insoluble problems, this particular one has always seemed to be eminenty susceptible of settlement be reasoned negotiations and compromise. I am sure that my colleagues on the Security Council will agree with me on one thing : that it is the plain duty of the Council to use its best endeavours to promote such a settlement.

We last discussed the various issues involved in the India-Pakistan question in detail in February and March 1951. As the result of our debates at that time, Dr Graham was appointed as the United Nations Representative for India and Pakistan, with a mandate to resolve, in negotiation with the parties, the differences between them which were preventing the fulfilment of the demilitarization provisions of the resolutions of the United Nations Commission for India and Pakistan. The four reports which we have received from Dr. Graham [*S/2375, S/2448, S/2661 and S/2783*] are a monument, if I may say so, to his thoroughness, patience and preseverance in carrying out this mandate, and I am sure we are all agreed on this one thing, the tribute that I have paid to Dr. Graham. As representatives will have observed, the fourth report of Dr. Graham, which deals with the latest negotiations, contains certain detailed suggestions for the determination of the number of armed forces to be left on each side of the cease-fire line at the

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end of the period of demilitarization. I believe that Dr. Graham has made a valuable contribution to the long negotiations on this point by putting forward these specific suggestions. It will be seen that in the draft resolution which the United States and United Kingdom delegations have now placed before the Council, and to which I have referred, we have based the action which we think the Security Council might urge the parties to take on certain of these detailed suggestions by Dr. Graham, to which I have just referred. I will come back to this point, however, a little later when I discuss the draft resolution in detail.

Before I do this I should like, if I may, to explain to the members of the Council the general considerations which have guided the United Kingdom as co-sponsor of this draft resolution.

In the first place, we do not believe that this dispute over the future accession of the State of Jammu and Kashmir can be left simply to settle itself, or that the efforts of the United Nations to achieve a settlement can in any way be relaxed. It may be that there are some problems which can with advantage be placed on the side and just allowed to develop and, perhaps, come to a head in their own way. I do not know, but that may be so. But I do not believe, personally, that representatives will consider that such a proceeding would be wise or proper in dealing with this question of India and Pakistan.

As I have already said, the dispute over the future accession of the State of Jammu and Kashmir is of a kind in which the Security Council ought to be able to be of great assistance. The parties have agreed—and they have many times reaffirmed their agreement—to decide the future accession of the State by means of a free and impartial plebiscite to be held under the auspices of the United Nations. And I repeat that: "under the auspices of the United Nations". Can the United Nations, therefore, do other than continue to strive to create the conditions in which this plebiscite may be held? Indeed, the danger, which we all have reason to fear might ise, to the peaceful relations of the peoples of India and Pakistan if this

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question were to be shelved by the United Nations is enough to persuade us that there can be—or there should be—no relaxation of effort on our part to bring about a settlement.

Of course, the United Kingdom Government has in no sense closed its mind to the possibility of a settlement of the problem on lines different from those which we have considered in the Security Council up to now. We have always insisted that the solution to this problem can come only as a result of an agreement by the two governments concerned, and it would follow from this, we should have thought, that if these governments choose to reach a settlement in accordance with principles different from those continued in the two resolutions of the United Nations Commission for India and Pakistan, on which all our recent action in the Security Council has been based, that settlement would be none the less welcome. I am sure that I speak for other representatives in the Security Council in saying that we do not regard ourselves as having any monopoly of wisdom in regard to this problem and that any agreement between the parties to settle the dispute in any whatever should be most welcome to all of us. Nevertheless, the only agreement which has been placed on record so far between the Governments of India and Pakistan on this question is that contained in the two resolutions of the United Nations Commission for India and Pakistan. It is because the original agreement between the governments has, therefore, been to decide the future accession of the State of Jammu and Kashmir through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations that the United Kingdom Government has always lent its support for a settlement on such lines. This we shall continue to do unless there is, and until there is, some indication from both governments that they prefer to work for a settlement in some other form. In drawing up a draft resolution to place before the Security Council, therefore, the Government I represent has, for this very reason, concentrated attention on resolving the main differences standing in the way of agreement between the two parties on the demilitarization of the State and the holding of a plebiscite.

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I should now like to examine for a moment, if I may, the extent to which Dr. Graham has been able to obtain acceptance by the two governments of the points contained in his twelve proposals which, of course, are all familiar to us. He originally put these proposals forward on 7 September 1951, and he has presented them in various slightly modified forms since then, ending with his proposals of 4 September 1952. In the first place, as we understand it, it has been agreed by the two governments that demilitarization of the State of Jammu and Kashmir should be effected in a single continuous process. We, for our part, have always felt that this would be more logical and, indeed, more suitable than for the demilitarization to be done in two separate operations, as provided for in the resolutions of 13 August 1948 and 5 January 1949. We therefore welcome the acceptance by the parties of Dr. Graham's proposal on this point.

It has also been agreed that on the Pakistan side of the cease-fire line the tribesmen and Pakistan nationals not normally resident in the State will have been withdrawn by the end of the period of demilitarization. In fact, we understand that this has long been the case. Nevertheless, we welcome also this restatement of agreement by the two parties.

We understand that they are further agreed that the Pakistan regular army units should be withdrawn from the Pakistan side of the cease-fire line and that on the Indian side of the cease-fire line the bulk of the Indian and State armed forces should likewise be withdrawn. These are the steps which the two governments concerned have agreed on as the method of reducing the military forces in the State to whatever final figures they may determine between them.

Dr. Graham has also reported that they have accepted his proposal that demilitarization should be conducted in such a way as to involve no threat to the cease-fire agreement either during or after the demilitarization period. This seems to us at any rate to be of great significance. If it is taken as a criterion in deciding the stages by which, and the extent to which, the military forces on each side of the cease-fire line should be

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reduced, it should provide a way of rosolving at least the major differences of view that may exist between the two governments. We believe that Dr. Graham, in suggesting the limits within which the final number of armed forces on each side of the cease-fire line should be fixed, was guided by this principle.

If the two governments could now decide on a final figure for the strength of their armed forces within the limits suggested by Dr. Graham and, indeed, within the limits which we have incorporated into our draft resolution, they can, we think, assure themselves that, in spite of a considerable reduction in the strength of the armed forces on each side of the cease fire line, this reduction will, at any rate, involve no threat to the integrity or to the security of the territory on either side.

Therefore, it is our view that, within these limits, final figures for the strength of the armed forces on each side of the cease-fire line can and should be determined ; that within these limits figures could be agreed upon which would enable a free and impartial plebiscite to be arranged—and this must, in our view, be the first and principal consideration—and which would at the same time take into account the need to safeguard law and order, the integrity of the cease-fire line and the security of the tertitory on each side of that line.

The Kashmir Militia and the Gilgit Scouts, which occupy a special position, need not, in the view of the sponsors of this draft resolution—I think I am speaking for the representative of the United States too—be included in the total of the forces to be determined in accordance with the draft resolution which we have now jointly put before the Council.

I am sure that representatives have noticed with deep satisfaction the agreement recorded in the first of Dr. Graham's twelve proposals, namely, that neither government will resort to the use of armed force to settle this dispute. I believe that once some evident progress towards the organization of a plebiscite is achieved, the efforts of the people of Kashmir on both sides of the cease-fire line and, indeed, of the peoples of Indian and Pakistan also, would be concentrated on the task of organizing

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the methods and procedures to enable the people of Jammu and Kashmir to express freely their wishes on the question of the accession, and that, once this stage was reached, the talk of war and threats of war, which we have all so much regretted in the past, would, as it were, become a thing of the past. Of course, should there still be doubts on this score, I should hope that the parties would remember the proposal which my Government and the Government of the United States put forward in the draft resolution of 21 February 1951 [*S/2017*]. It may be remembered that at that time we suggested that a neutral force might be used to facilitate demilitarization. If demilitarization on the lines suggested by Dr. Graham and by our own draft resolution can be brought about, I do not believe that the device of a neutral force would in any sense be necessary. Of course not. But, should the fear that demilitarization may lead to a renewal of conflict in Kashmir still exist, 'perhaps' we might, with respect, urge whichever of the parties feels this fear to reconsider the proposal that a neutral force might then be made available.

In this way, therefore, we would hope that an agreement might at last be reached by the two governments on the extent of demilitarization ; on the number of armed forces to be left on each side of the cease-fire line at the time when the plebiscite is to take place. Dr. Graham, in paragraph 38 of his last report [*S/2783*], observes that not only the number of armed forces but also their character remains to be settled, which of course is true. On this question of the character of the forces, I would simply say that we would hope that agreement could quickly be reached, based on the principle I have mentioned earlier that at no stage should demilitarization involve a threat to the cease-fire agreement. This would mean that the forces of each side of the cease-fire line should be, broadly speaking, of the same kind. I should make it clear that the United Kingdom Government has never thought that the proposal to limit the forces on the Pakistan side of the cease-fire line to an armed civil police force while leaving a military force on the other side of the cease-fire line was consistent with a really free plebiscite. I hope that representatives will join me in urging that the parties should

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resolve any differences they may still have on this point in the way which I have suggested.

In the draft resolution [*S/2839*] which the United Kingdom and the United States have placed before the Council, it is sought to concentrate attention on this one question, namely, of determining finally the figures to which the armed forces on both sides of the cease-fire line are to be reduced. It will be seen that the suggestion contained in the draft resolution is that the two governments should negotiate directly with each other to his end. We should hope that Dr. Graham will be ready to assist the two parties in any way they indicate, and we have framed the draft resolution so as to provide for this possibility. We would hope, however, that the Council will agree that at this moment the primary responsibility for working out an agreement should lie with the two governments themselves. The United Kingdom Government, therefore, would earnestly hope that the Governments of India and Pakistan would each appoint representatives with adequate powers to enable them to negotiate a final agreement on demilitarization. In the draft resolution we have suggested that these negotiations should take place in New York. This seems likely to be the most convenient arrangement since, after all, while the General Assembly is in session, the ministers and representatives of the two governments who will be concerned with the negotiations are in addition likely to be engaged with the work of the General Assembly.

It will also be seen that the draft resolution requests the two governments to inform the Security Council of the results of their negotiations within a period of thirty days. In view of the urgency of a solution and the narrow gap, as we think, to which the differences between the two parties seem to have been brought, the sponsors of the draft resolution believe that members of the Council will think it desirable that a further report should be placed before them within the period which we have indicated in the draft resolution.

Once agreement is reached on the level of the armed forces at the end of the demilitarization, surely it will be but a short step for representatives of the two governments, sitting in

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joint session with military experts, of course, to draw up a detailed programme of disbandment and withdrawal.

The two governments have already agreed that such a programme should be carried through within ninety days from the date of its signature by them. Within a matter of months, therefore, we might hope to see the forces in Kashmir reduced to the level at which a fair and impartial plebiscite could take place. Within a matter of months we might hope to see the Plebiscite Administrator formally appointed and established inside Kashmir to begin the final task of preparing for the voting to take place.

So near are we to a solution—or so it seems to us—of this difficult and dangerous problem which has so long exercised our minds and unsettled and and weakened an extensive and vitally important region of the world; so near are we to a solution if only the spirit of compromise and the determination of both parties to achieve a settlement can be brought to grapple with the outstanding differences between them.

The sponsors of this draft resolution hope that there will be tendency on the part of either of the two governments to go behind the agreements enshrined in the two resolutions of the United Nations Commission for India and Pakistan which have been agreed on. These resolutions, as we think, contain all the elements of a settlement. Reinforced and amplified as they are by the agreements of the two governments to all but two of Dr. Graham's twelve proposals, they provide the Security Council and the parties with a framework on which to build, and they also provide certain agreed principles according to which that building should be done.

The ultimate objective of a fair and impartial plebiscite under the auspices of the United Nations has, after all, been written into solemn agreements by the two governments and endorsed by this Security Council. These agreements have been affirmed and reaffirmed by the two governments many times during the last three and a half years. The transformation of this agreement into the reality of the actual voting aught not to present insuperable difficulties. We have recently seen the

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tremendous achievement—if I may say so, with respect—of the Government of India in organizing and carrying through a fully democratic election throughout its vast territory. From this great example it is clear that the will of the people of Kashmir and Jammu in this question of accession could be ascertained without any insuperable difficulty.

Is it therefore too much to hope that the two governments can now resolve their differences and show by example how the precepts which the United Nations frequently affirms can be put into practical effect and made the instrument of a political settlement which would not only satisfy the aspirations of the people of Jammu and Kashmir but would also add greatly, as we all know, to the happiness, prosperity and security of peoples throughout the free world.

144. *Text of the speech made by Mr. Gross (USA) in the Security Council meeting No. 607 held on 5 December 1952.*

This controversy is now quite familiar to us all but no less a problem for that reason. As members of the Security Council, the United Kingdom and the United States have attempted in their draft resolution [*S/2839*] to put forward the elements for a settlement. I should like briefly to review the role of the Security Council and of the parties, as my Government sees it, in attempting to resolve this controversy. When one considers that it has been before the Security Council for nearly five years, we can conclude, unless past efforts of the Security Council are largely discounted, that the solution will not come simply.

It seems to me that the principles on which we are trying to proceed to assist the parties to carry out their Charter obligations are these.

In the the first place, a lasting political settlement must be an agreed settlement.

Secondly, the Security Council will, we feel, always welcome any agreement which the parties themselves can reach on

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any basis which will settle the dispute, provided of course that basis is consistent with the principles of the Charter of the United Nations.

Thirdly, we feel that it is the role of the Security Council to assist the parties in seeking to reach agreement. In this case the Security Council has made available the services of Mr. Frank Graham as the United Nations Representative.

Fourthly, we believe that agreement most frequently is reached step by step through negotiation and that negotation involves an element of compromise.

Finally, we believe that the Security Council should consider with care the views and the recommendations of its representative and indicate to him and to the parties its views on the positions he has taken.

With the permission of the President I should like now to examine the draft resolution [*S/2839*] before the Council in the light of these principles.

The draft resolution recalls the basic agreements which the parties have reached thus far, the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949. These resolutions provided that the question of the accession of Kashmir would be decided through a free and impartial plebiscite conducted under the auspices the United Nations. We shall be concerned here with me principles those resolutions set out, which would form the basis for a truce agreement. The United Nations Representative has demonstrated that he is well aware of them. He has set them out in his first report (S/2375), circulated on 15 October 1951.

The draft resolution before the Council goes on to recall the three resolutions of the Security Council during the period when Mr. Graham has been acting. Then it endorses the general principles which he has formulated and on all but two of which an agreement has now been reached between the parties. The draft resolution goes on to note that a plan of demilitarization is not now in existence because agreement has not been reached on one issue. As the United Nations Representative has

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narrowed the difference down to this one issue, we feel that it is quite appropriate for the Security Council to examine the ways in which the United Nations Representative and the parties have approached this issue. As a co-sponsor of the draft resolution, my Government's examination of this process and our reflection on Mr. Graham's views have led us to arrive at and agree with the United Kingdom Government on the document now before you.

After sixteen months of effort, of wise effort, Mr. Graham is reporting that he has narrowed the problem down to the number and character of forces remain on each side of the cease-fire line. He has put before the Security Council two methods, either of which might, in his view, help the parties to settle this issue : either the establishment of the number and character of forces to remain on either side of the cease-fire line ; or the determination of these numbers as a result of studying criteria or principles. This means that the parties would consider why any troops are needed, what they are needed for, and in view of their solution, how many are needed.

The draft resolution, in its operative paragraph urges the parties to negotiate for the purpose of reaching agreement on a specific number of forces within certain bracketed ranges suggested to them by the United Nations Representative. The draft resolution also urges the parties to negotiate, bearing in mind the principles or criteria which would lead to a decision on what the precise numbers should be. Presumably, we venture to think, the United Nations Representative suggested the bracketed ranges of figures as a result of his own stuty of these principles or criteria which he leter put before parties.

The United Nations Representive, Mr. Graham, reported to the Security Council, on 10 October 1952 [*605th meeting*], that the parties had been able to agree certain points of his twelve point programme and that of differences between them on the twelve-point programme had been narrowed down to one main point in which the whole plan depended.

Mr. Graham describes this—and I use his own words—as "the issue of the number and character of forces to remain on

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either side of that cease fire line the end of the period of demilitarization. In his third report to the Security Council (*S/2611 and Cor. 1*) on 22 April 1952. Mr. Graham recommended that his own negotiations with the parties be continued with a view to "resolving the remaining differences on the twelve proposals with special reference to the quantum of forces to be left on each side of the cease-fire line at the end of the period of demilitarization".

Mr. Graham has, from time to time, put before the Security Council various proposals which he has suggested to to the parties during his sixteen months of devoted efforts. Originally Mr. Graham left open, in the form of blank spaces to be inserted by the parties, the number of forces on which they would agree. On another occasion Mr. Graham suggested that the numbers be arrived at by relating them to the proportion of forces as they existed at the time of the cease-fire and the cessation of hostilities. Again, more recently, he suggested on 16 July of this year [*S/2783, annex 3*], certain bracketed numbers within which he recommended that the parties seek a specific figure. After that he arrived at the point of suggesting, on 2 September of his year [*S/2783, annex 7*], that at the end of the period of demilitarization there should be an armed force of 6000 on the Pakistan side of the cease-fire line, the tribesmen and Pakistan troops having been withdrawn, and large-scale disarmament of the *Azad* Kashmir forces having taken place, while on the Indian side of the cease-fire line there should be an Indian army force of 18,000, including the State armed forces. Mr. Graham also came forward with the suggestion that it might be helpful to the parties to consider the principles or criteria for arriving at figures, and this he suggested on 4 September 1952 [*S/278-, annex 8*].

I think it is fair to conclude that in coming forward with these proposals, Mr. Graham had taken the advice of his military adviser, and that the numbers he has suggested are not guesses arising from some sense of political expediency. Rather, it is fair to view them as carefully considered suggestions of the United Nations Representative, being in mind the basic agreement of the parties heretofore reached in the form of the

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resolutions of the United Nations Commission for India and Pakistan. Mr. Graham has emphasized over and over again the importance of these agreements, the way in which they present problems which will exist for both parties at the end of the period of demilitarization. In his most recent statement Mr. Graham tells us that there is an agreement between the parties that on the Pakistan side of the cease-fire line, the tribesman and Pakistan nationals not normally resident therein who have entered the state for the purpose of fighting will have been withdrawn, and that the Pakistan troops will have been withdrawn from the state. There is also an agreement that on the Indian side of the cease-fire line the bulk of the Indian forces in the State will have been withdrawn. He has suggested the various methods I have outlined for assisting the parties to agree on what forces shall remain.

Having considered the United Nations Representative's carefully formulated suggestions on this question, and recognizing the considerable thought and effort that must have gone into arriving at them, the United Kingdom and the United States Governments, together, have put forward the draft resolution urging the parties to negotiate. We have urged them to negotiate to arrive not at a number which we suggest but at a number within the range which Mr. Graham himself suggested on 16 July of this year. It was on the basis of these ranges of figures, the Security Council will recall, that Mr. Graham reported the willingness of the paries to go to Geneva during the year and to negotiate. We therefore have arrived at these suggestions of the United Nations Representative as a considered judgement of his, which we support and now urge the parties to use in seeking agreement between themselves.

As the United Kingdom representative has pointed out [*606th meeting*], the Kashmir Militia and the Gilgit Scouts, occupying as they do special position, would not be computed in arriving at figures within the range on which the parties are urged in our draft resolution to negatiate.

The ranges of number contained in the draft resolution were taken from the 16 'ely 1952 proposals of the United

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Nations Representative, on which the parties had agreed to go to Geneva and negotiate.

Thus, the co-sponsors, the United States and the United Kingdom, are relying upon a suggestion of the mediator, and for that reason the draft resolution, document S/2839, reads in part as follows :

"... this number to be between 3,000 and 6,000 armed forces remaining on the Pakistan side of the cease-fire line and between 12,000 and 18,000 armed forces remaining on the Indian side of the cease-fire line, as suggested by the United Nations Representative in his proposals of 16 July 1952 [annex 3 of S/2783]..."

The Security Council will notice that the draft resolution urges the parties to negotiate "bearing in mind" the principle or criteria which the United Nations Representative suggested on 4 September of this year. The co-sponsors feel they are worthy of careful attention.

These principles, as the relate to the point we are discussing, are contained in annex 8 to the United Nations Representative's fourth report [S/2783]. Paragraph 7 reads as follows :

"7. Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the sitution will be :

"(a) *On the Pakistan side of the cease-fire line* :

"(i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the propose of fighting will have been withdrawn :

"(ii) The Pakistan troops will have been with drawn from the State ;

"(iii) Large-scale disbanding and disarmament of the *Azad* Kashmir forces will have taken place : so that at the end of the period ; of demilitarization there that be the minimum number of forces that are required for the maintenance of law and order and of the cease-fire

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agreement, with due regard to freedom of the plebiscite ;

"(b) *On the Indian side of ceaserfire line* :

(i) The bulk of the Indian forces in the State will have been withdrawn ;

"(ii) Further withdrawal; or reductions, as the case may be of the Indian and State armed forces remaining in the State after the completion of the operation referred to in sub-paragraph (b) (i) above will have been carried out ; so that at the end of the period of demilitarization there shall be the minimium number of Indian forces and State armed forces that are required for the maintenance of law and order and of the cease-fire agreement, with due regard to the security to the State and the freedom of the plebiscite".

It will be recalled that the parties had agreed that :

"...the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above" (S/2783, annex 8, para. 8).

The parties had agreed to a revised version of the ninth principle, which is firmly based on the two United Nations Commission resolutions, that :

"...pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the United Nations" (S/2783, annex 8 para. 9).

I have taken the liberty of reading these principles or criteria because, the nature of things, they must be the considerations which have led the United Nations Representative so arrive at the concrete figure he has suggested to the parties, including the range of figure concerning which we are urging the parties to negotiate. It will be noted that Mr. Graham has suggested as one principle here, as on previous occasions, that the large scale disbanding and disarmament of the *Azad* Kashmir forces will have taken place so that at the end of the

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period of demilitarization there shall be the minimum forces required for the maintenance of law and order and of the cease-fire agreement with due regard to the freedom of the plebiscite. We have accepted what we conclude to be the view of the United Nations Representative that the forces—and that is what he calls them—which remain on the Pakistan side of the cease-fire line should be those *Azad* Kashmir forces which would remain after large-sale disarming and disbanding of the *Azad* Kashmir forces. We have also accepted the view of Mr. Graham that on the Indian side of the cease-fire line the forces should be Indian army forces and State armed forces.

The resolution of 13 August 1948 of the United Nations Commission for India and Pakistan provides in part :

> "Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission" [part II, para. A. 3].

For the word "Commission" we may read "the United Nations" because that Commission, the United Commission for India and Pakistan, is no longer in existence.

Thus it was one of the United Nations Representative's first problems and one which is still before us, to reduce this principle to the factual situation which would exist at the end of the period of demilitarization. Originally he proposed—but lacking agreement of the parties did not pursue this proposal after December 1951—that on the Pakistan side of the cease-fire line the force should consist of civil armed forces. He has since consistently suggested, if we read his language correctly, that these forces should be *Azad* Kashmir forces. After dropping his original proposal in December 1951, he suggested that the United Nations surveillance be effected by removing the *Azad* Kashmir forces from the administrative and operational control of the Pakistan High Command, and by having them officered by neutral and local officers, as I have stated, under the surveillance of the United Nations.

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He finally suggested that the remaining *Azad* Kashmir forces should be the minimum number necessary for the maintenace of law and order, with due regard to the freedom of the plebiscite. Thus, it is fair to say that the United Nations Representative consider that some *Azad* Kashmir force would remain. The co-sponsors agree with this position.

The United Nations Representative has specified what the function of these remaining *Azad* Kashmir forces would be. He has described it as "the maintenance of law and order and of the cease-fire agreement, with due regard to the freedom of the plebiscite".

As the resolution of the United Nations Commission for India and Pakistan states in the part which I have just read, these forces would be in territory evacuated by the Pakistan troops and administered by the local authorities under the surveillance of the United Nations. Considering then what the functions of these remaining *Azad* Kashmir forces would be—as Mr. Graham has stated them—operating in an area evacuated by Pakistan troops. I think it is clear that they would be separated from the administrative and operational control of the Pakistan High Command. This position was apparently acceptable to the Government of Pakistan when it indicated to Mr. Graham that it was prepared to accept. subject to certain observations not here relevant, his proposals of 16 July 1952. The draft resolution takes into account the conclusion which the United Nations Representative had previously reached.

He also indicates that the role of the Indian army forces on the Indian side of the cease-fire line would call for a minimum number of Indian forces remaining to ensure that maintenance of law and order and the observance of the cease-fire agreement and with due regard for the security of the State. This also is entirely consistent with the resolution of the United Nations Commission for India and Pakistan of 13 August 1948, paragraph B (3).

It may well be that the United Nations Representative's assistance will help the parties in approaching these problems.

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Therefore, the operative paragraph of this resolution attempts to organize and put before the Security Council and the parties some of the suggestions of the United Nations Representative on the one issue which all are agreed is at the root of the problem. From what I have said I hope it is clear that the co-sponsors, like the United Nations Representative, have attempted to build on the United Nations Commission resolutions and at each stage to narrow rather than to broaden the areas in which agreement is thus far lacking. As the representative of the United Kingdom has observed, we hope that there will be no tendency on the part of either of the two Governments to reopen questions already agreed on under these resolutions.

We have attempted to put before the parties some of the wisdom and some of the suggestions of the United Nations Representative and to urge them to negotiate to attempt to reach a solution. We have aked them to provide the Security Council with their own account, in their own words, of where these negotiations lead them. We have done this because we see in this case an element of urgency. It is a cause which, as Mr. Graham stated to the Security Council on 10 October [*605th meeting*], should not be allowed to drift lest the parties and the organized society of nations should find themselves in a position of greater danger.

In the areas of ageement thus far reached, the United Nations Representative, by formulating his proposals and by his negotiations, has, in the view of my Government assisted the parties. The draft resolution does not in any way impair or limit Mr. Graham's authority under the previous Security Council resolutians, and we expect and hope that he will continue to excrcise his function under them. Therefore, the draft resolution not only expresses the gratitude of the Security Council to him but requests him to continue to make his services available to the Governments of India and Pakistan. It also endorses the principles on which he has sought to bring about agreement.

In conclusion, I return to the general principles with

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which I began my statement. This draft resolution offers to the parties an opportunity to arrive, by their negotations, at a settlement of the final issue now standing in the way of the demilitarization of the State and the planning for a plebiscite, including the induction into office of the Plebiscite Administrator.

The settlement itself, when it comes, will be the result of free agreement by the parties themselves. The Security Council and the United Nations Representative can simply assist the parties in reaching agreement.

The United States Government would welcome the agreement of the parties on any just basis which would settle this dispute. The road we have suggested reflects much thought and much negotiation. The United Nations Representative recognizes that there may be more than one road to settlement. He has told the Security Council in his fourth report that when he invited the parties to negotiate at Geneva he made it clear to them that he would at all times welcome suggestions from either Government directed towards the settlement of the main differences on the twelve proposals, the general implementation of the United Nations Commission resolutions and the solution of the dispute. The representative of the United Kingdom stated to the Council on 6 November [*606th meeting*] that his Government had in no sense close its mind to the possibility of a settlement of the problem on lines different from those which we have considered in the Security Council up to now.

Of course, the numbers of troops which we have urged the parties to negotiate on, and the criteria which we have urged them to bear in mind, are not now agreed on by them. If such agreement had, happily, been reached, there would be no occasion for this or any other draft resolution except, perhaps, an expression of gratification for a solution reached. Negotiation must, in the nature of things, involve the element of give-and-take and the possibility of compromise. We have attempted to restate in the draft resolution an appreciation of the views of the United Nations Representative about how such compromise might be brought about.

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The United States takes seriously the view of Mr. Graham that there is danger to us all in allowing this case to drift. As the representative of the United Kingdom put it, we cannot leave it to settle itself.

All Members of the United Nations have an interest in seeing this dispute settled peacefully. The United States, for its part, feels that it has more than an interest in the matter : it has the most earnest desire to see the two great States of the subcontinent join together to assure their mutual peace and security as well as their mutual prosperity.

These two nations have much more in common than the fact the they are neighbours. Whole areas of understanding between them should and, we believe, will exist once this dispute has been settled. Leadership and statesmanship by the Governments of India and Pakistan can bring about that result which we devoutly seek.

I have no words to match the eloquence of Mr. Graham, and I take the liberty of concluding with a quotation from the statement he made in the Security Council a year ago [*570th meeting, paras 66 and 70*] :

"The opportunity in time and place is for the leadership on the subcontinent, tested in the struggles and sufferings for the human liberty of 400 million human beings, to help prevent the destruction of human freedom and the self-destruction of civilization by setting challenging example of demilitarization, self determination, reconciliation and reconstruction in a fearful and broken world...

> "The subcontinent is the place for a timely example of demilitarization and of self-determination. Now is the time for the dedicated leadership of two great peoples to rise to the call of their spiritual heritage, the responsibility of their power and the opportunity for their greatness to give in a dark world challenging examples and fresh hopes to the people in the unresting adventure of the human spirit, through the United Nations, in the long pilgrimage towards a freer and fairer world, in answer to the prayers

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of the people for peace and freedom on God's good earth."

144a. *Text of the speech made by Mrs. Pandit (India) in the Security Council meeting No. 608 held on 8 December 1952.*

Five years have passed since India brought this complaint before the Security Council, following the invasion of the State of Jammu and Kashmir by tribesmen and nationals of Pakistan, who were armed, equipped and direeted by the Pakistan authorities. The Government of India requested the Council to call upon Pakistan to put an end immediately to this aid and assistance and to its participation in this act of aggression against India. In particular, the Government of India requested the Council to call upon the Government of Pakistan : first, to prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State; secondly to call upon other Pakistan nationals to desist from taking by part in the fighting in the Jammu and Kasamir State, thirdly, to deny to the invaders access to and state of its territory for operations against Kashmir, military and other supplies, and all other kinds of aid that might tend to prolong the struggle.

Pakistan emphatically denied the charge of aggression, but the complaint was later fully proved to be correct. Indeed, in subsequent months it was proved true in an aggravated form. Despite Pakistan's denials and protestations of innocence, the regular Pakistan army also invaded the State on 8 May 1948, according to the later admission of the Pakistan authorities themselves. This unprovoked aggression and invasion of the territory of a neighbour and a Member State is a gross violation of the Charter of the United Nations as well as of international law. Thus Pakistan, not content with aiding and encouraging aggression, itself directly became an aggressor. It should be observed thar the Pakistan army invaded the State despite the fact that the Council was already seized of the question and was engaged in searching for peaceful solutions.

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The Pakistan army to this day continues its forcible and illegal occupation of a large part of Kashmir State, thus committing a continuing breach of international law. No solution has yet been found because the root cause of the conflict, namely the unlawful occupation by Pakistan of the territory of the Jammu and Kashmir State, and the creation of subversive forces and authorities therein, continues. Until the Council is prepared, firmly and courageously, to face this central issue, no just and lasting solution can be found.

The relative position and status of the parties in this dispute, and therefore the issue itself, will not be set in the proper context unless they are related to these basic facts. India derives its status in the Jammu and Kashmir State by virtue of the accession of the State to India on 26 October 1947, by an instrument which was accepted by the then Governor-General of India, Lord Mountbatten of Burma. The validity of the accession has at no time been questioned—as indeed it cannot be—by the Council or by the United Nations Commission for India and Pakistan or by any other authority set up or appointed by this Council.

But what is Pakistan's status in Kashmir ? The Council must face up to the stark fact that Pakistan entered the State by an act of aggression, and that it continues in possession of a large part of State territory in the capacity of an invader who is in forcible and illegal possession of the territory of a neighbouring State. This is the central issue in this problem, and no proposals or attempted solutions which ignore this basic position can be realistic or effective.

It was in recognition of this position that the two UNCIP resolutions of 13 August 1948 and 5 January 1949 drew a distinction between the commitments of the two sides in furtherance of an armistice agreement. In the former resolution it was stated that as the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from

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that State". The Government of India, for its part, was required to withdraw only the bulk of its forces in stages to be agreed upon as part of the general arrangements for a peaceful settlement.

The United Nations Commission's resolution of 1948 was based on the recognition of the "new situation" which had arisen through the invasion of Kashmir State territory by regular Pakistan forces. The sovereignty of the Jammu and Kashmir Government over the entire State, including the areas invaded and occupied by the Pakistan forces, was recognized, and the first step agreed upon was the total withdrawal of Pakistan forces from all parts of State territory. The Government of India's constitutional responsibility for protecting the State from external aggression was admitted and duly recognized. The Government of India was to withdraw the bulk of its forces, but was always to keep enough armed forces in the State to give it protection.

I need not enter into a discussion of the various attempts at mediation, or the earlier reports of the United Nation Representative, Mr. Graham, as the Council has already fully discussed them. I shall, however, pursue my examination of the difference in the status of the parties implicit in some of Mr. Graham's proposals. It will be recalled that in his proposals of 16 July 1952, [*S/2783. annex 6*], Mr. Graham had proposed certain figures in regard to the quantum of forces remaining on the other side of the cease-fire line, but it was at the same time laid down that these forces would be separated from the administrative and operational control of the Pakistan High Command and that they would be officered by neutral, and local, officers under the surveillance of the United Nations. On the Indian side of the cease fire line, however, there would be an Indian army force.

The same concept of the sole responsibility of India for the security of the State is found in Mr. Graham's seventh proposal of 4 September 1952, [*S/2783, annex 8*], where it is clearly laid down that in considering the final number of forces required on the Indian side of the cease-fire line, due regard

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shall be paid to the security of the State. This is not merely an empty phrase, but is the recognition of India's normal and constitutional responsibility for the protection and security of the State, which has twice suffered invasion at the hands of Pakistan. This responsibility India is determined fully to discharge. It rests with the Government of India. The Government of India is not prepared to abdicate it, or to share with others, least of all with the aggressor.

This brings me to the consideration of the proposals and recommendations now made by Mr. Graham in his fourth report [*S/2783*], following his discussions with the parties at Geneva. I should like to pause here to pay a sincere tribute on my own behalf and on behalf of my Government, to the patience, skill and diligence which Mr. Graham brought to bear on his task. In the discussions which took place at Geneva, agreement was reached on a number of points, but there is still no agreement on some basic issues, which represent the hard core of the problem of demilitarization.

The most important of the pending issues are the questions of first, the quantum and secondly, the character of the forces remaining on each side of the cease-fire line at the end of the period of demilitarization. The Government of India has fully explained its position on this matter on more than one occassion, and our memorandum to the United Nations Representative, presented to him at Geneva, which appears as annex 5 to his fourth report, reaffirms our basic views. These views remain unaltered.

The Government of India has consistently maintained that the requirements of the forces on either side of the cease-fire line should be determined on the basis of the principles embodied in the resolutions of the United Nations Commission for India and Pakistan, of 13 August 1948 and 5 January 1949. Paragraph B. 2 of part II of the resolution of 13 August recognizes that the Government of India is responsible for providing the local authorities on the Indian side of the cease-fire line, that is, the Government of Jammu and Kashmir, with the forces necessary for maintaining law and order. Paragraph 4 of the resolution of

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5 January 1949 further recognizes that the disposal of Indian and State armed forces has to be made with due regard to the security of the State. It is clear that, in the view of the Commission as expressed in the above resolutions, the requirements of law and order as well as the over-all security of the State, which includes adequate defence, have to be taken into account in assessing the requirements of the forces to be maintained on the Indian side of the cease-fire line.

This view is fully in keeping with the legal and constitutional position of the Government of India with respect to the State of Jammu and Kashmir. Having regard to the above responsibilities of the Government of India as well as the integrity of the State of Jammu and Kashmir, both of which have been recognized by the United Nations Commission, the strength of the forces on the Indian side must be assessed in the light of the following governing considerations : first, aid to the civil authorities in maintaining law and order; secoudly, minimum defence against external aggression; thirdly, prevention of incursions or infiltration across the cease-fire line.

It should be borne in mind that Pakistan would be free to locate its force as it likes within its own borders, which for a considerable length are conterminous with the borders of Jammu and Kashmir State, and for a still greater length within practically striking distance of the cease-fire line and important and vital areas of Jammu and Kashmir State.

In view of the considerations which I have mentioned, and after careful examination and assessment by its experts, the Government of India had come to the conclusion that a minimum force of 28,000 was required to carry out its responsibilities. However, on complete disbandment and disarmament of the *Azad* Kashmir forces, and as a further contribution towards a settlement, the Government of India is prepared to effect a further reduction of 7,000 to a figure of 21,000, which is the absolute and irreducible minimum. I should like to emphasize that this figure, which includes the former State armed forces, represents less than one-sixth of the Indian forces at the time of of the cease-fire. It should further be emphasized that this

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force will have no supporting arms such as armour or artillery. In addition to its other duties, this small force would also be responsible for policing the cease-fire line on the other side of which is the aggressor. This line is several hundred miles long and runs through difficult and mountainous terrain. This force, has also to guard the extensive borders of the State of Jammu and Kashmir. A glance at the map will be sufficient to indicate the magnitude of the task with which the proposed force will be entrusted.

So far as the other side of the cease-fire line is concerned, the position is that although the Government of India is constitutionally responsible for the defence of the entire State, including the so-called *Azad* Kashmir area, it is prepared to agree to the retention in this area by the *Azad* authorities of a civil armed force. The administrative authorities to be established on the other side of the cease-fire line before the end of the period of demilitarization can only be local authorities. The Government of India has agreed to United Nations surveiliance over the local authorities in the area evacuated by the Pakistan army until the plebiscite has been carried out. Such authorities will be in charge of local law and order, whether in evacuated territory or with reference to the cease-fire line. They cannot be entrusted with any responsibilities under the cease-fire agreement. That agreement is between the Governments of India and Pakistan, while the local authorities can have no internatioaal status. To concede to them any armed forces equivalent to troops would be wholly inconsistent with their status and functions and would constitute a violation of the sovereignty of the Indian Union and the integrity of the State of Jammu and Kashmir. It should be noted that the so-called *Azad* Kashmir Government has never at any time been recognized by any authority not even by the Pakistan Government itself. In the very nature of things therefore, the local authorities of the so-called *Azad* Kashmir can at best be entrusted only with a civil armed force. The Government of India considers that, having regard to all these circumstances, a civil armed force of 4,000 would be on the liberal side, considering the pre-aggression strength of similar forces policing that area. How-

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ever, it would be prepared to consider some increase in these forces, which will be operating under the surveillance of the United Nations Representative, provided the latter can make out a case that the proposed strength is inadequate.

As for the argument advanced by the United Kingdom representative that the presence of troops on the Indian side of the cease-fire line with only a civil armed force on the other side would be inconsistent with a really free plebiscite, the statement ignores not only the UNCIP resolutions which themselves provide for the stationing of such troops, but it also ignores the actual facts of the situation. It should not be forgotten that in Pakistan, within a few miles of the State frontier, there already is, and there would continue to be, a much heavier concentration of troops. Logically, same argue ment could be used to justify the demand for the withdrawal of Pakistan troops from their cantoments—and the number of such cantonments is very large—in the neighbourhood of the St ate frontier.

In the his attempt to resolve the dead-lock on this question, Dr. Graham made the alternative proposal that agreement should first be reached between the parties on the principles or criteria for determining both the character and the quantum of the forces. The Government of India consider that the this approach has been conceived in the right spirit having regard to the two UNCIP resolutions and that it contains the possibility of a settlement on this fundamental issue. Unless there in an initial agreement on the principles or criteria on the basis of which the character and quantum of the forces on both side are to be determined, the deadlock is likely to continue. It is obvious that these position recognized by the two UNCIP resolutions. Any departure from this position aimed at establishing parity of any kind, either of character or of quantum, between India on the one hand and Pakistan or the local authorties on the other, is unacceptable to the Government of India. Indeed, Dr. Graham's proposal referred to ealier recognizes this basic difference in the relative status and responsibilities of India and of the other parties involved.

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Against this background, I shall now deal with the draft resolution [*S/2839 and Corr. 1*] and with the statement of Sir Gladwyn Jebb in introducing it [*606th meeting*]. The operative part of this draft resolution in contained in the seventh paragraph. The parties are urged to enter into negotiations in order to reach agreement on the number of forces. No mention is made of their character, which as I have indicated, has been a vital issue in the negotiations all along. This omission is significant. The figures to be arrived at must be within certain prescribed margins. In considering these numbers, the resolution requires that the principles and criteria contained in paragraph 7 of Dr. Graham's proposals of 4 September 1952 [*S/2783, annex 8*] should be borne in mind. Lest it be assumed that these proposals of the sponsors are derived from the conclusions reached by Dr. Graham, let me quote paragraph 38 of his fourth report [*S/2783*] :

The United Nations Representative holds the view that for reaching an agreement on a plan of demilitarization it is necessary either

> "(*a*) To establish the character and number of forces to be left on each side of the cease-fire line at the end of the period of demilitarization ; or
>
> "(*b*) To declare that the forces to remain on each side of of the the cease-fire line at the end of the period of demilitarization should be determined in accordance with the requirements of each area, and, accordingly, principles or criteria should be established which would serve as guidance for the civil and military representatives of the Governments of India and Pakistan in the meeting contemplated in the Provisional Clause of the revised propposals".

It will be easy to that in the seventh paragraph of the draft resolution, the sponsors have inadvertently or unjustifiably combined what are essentially independent and alternative approaches envisaged by the United Nations Representative. In the draft resolution the word "or", which is the essence of

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Dr. Graham's proposal, has been replaced in effect by the word "and", leading to the result contained in the seventh paragraph. This, in our view, is not in line with Dr. Graham's recommendation. Further, Dr. Graham has posed his alternatives in general terms leaving the details to be negotiated between the parties. The draft resoultion, in combining these alternatives, has subjected them to specific limitations which do not appear in Dr. Graham's conclusions and which Dr. Graham, it appears to us, had deliberately left for further consideration and negotiation. Paragraph 38 of his fourth report suggests that agreement should be reached both on the number and character of the forces on each side ; the draft resolution refers to numbers alone, and further lays down the limits within which the numbers must lie. It thus leaves out the essential and important consideration of the character of the forces. Paragraph 38 then suggests that agreement may alternatively be reached on the principles which should govern both the number and character of the forces on each side ; the draft resolution seeks to specify these principles and further to lay down in advance the conclusions which are to be extracted from them. Dr. Graham envisages two alternative and flexible procedures ; the draft resolution proposes one procedure only, restricted in advance, and leading to a predetermined result.

In effect, the draft resolution makes Dr. Graham's proposals of 16 July 1952 [*S/2783, annex 3*] a consequence of his proposals of 4 September 1952 [*S/2783, annex 8*], instead of being independent of them. Moreover, the proposals of 16 July appear to be incorrectly cited. They do not simply refer to the limits within which the quantum of forces on each side is to be fixed. They also stipulate a radically different character for the forces on either side. The forces on the Indian side are to remain under the complete control of the Government of India whereas those on the other side are to be separated from the administrative and operational control of the Pakistan High Command and are to be officered by control and local, officers. The numbers have been put forward in relation to this difference of charater—a difference which incidentally Pakistan has rejected. To take into account one half of

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Dr. Graham's proposal while ignoring the other half, to which it is integrally related is not merely to mutilate his recommendations but to permit their purpose to suffer distortion and to render them unsuitable for consideration as a basis for resolving the dead-lock. To this extent, the draft resolution has deprived the patient labours of the United Nations Representative of their purpose.

We have therefore found ourselves forced to refer to the basic issues of the origin of the complaint made by us before the Security Council in order to indicate the essential difference in the status of the parties and to show how this is totally disregarded in the draft resolution.

Sir Gladwyn Jebb has referred nostalgically in his speech [*606th meeting*] to the idea of introducing a so-called : "neutral" force in the State. In fairness to the representative of Pakistan. Sir Gladwyn Jebb cannot claim originality for this idea, as it was Sir Zafrulla Khan himself who first propounded it as long ago as 19 April 1948 [*285th meeting*] in this very Council. In its memorandum to the United Nations Commission's resolution of 13 August 1948 Pekistan pursued the idea. The idea was echoed in the United Kingdom-United States draft resolution of February 1951 [*S/2017*], which openly recommended a neutral or an international force. Sir Gladwyn Jebb should know that we long ago rejected this idea of the imposition of a foreign force on Indian territory as being derogatory to the dignity and territorial integrity of an independent nation. It is surprising that anyone should think of suggesting to us that we should admit, or receive back on our soil, foreign troops whose withdrawal was an essential feature of our independence. It does not matter in what guise they are sought to be introduced or by whom. We shall not permi this to happen.

Certain other remarks made by Sir Gladwyn Jebb in the course of his speech cannot be allowed to pass unchallenged. He has stated that paragraph 8 of Dr. Graham's proposals [*S/2783 annex 3*] may be taken as "a criterion in deciding the stages by which, and the extent to which, the military forces on

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each side of the cease-fire line should be reduced". He goes on to say :

> "We believe that Dr. Graham, in suggesting the limits within which the final number of armed forces on each side of the cease-fire line should be fixed, was guided by this principle".

Sir Gladwyn Jebb's interpretation of this paragraph appears to us misleading and incorrect. Paragraph 8 has no bearing at all on the principles for determining the character and quantum of forces. These principles or criteria are stated in paragraph 7 of Dr. Graham's proposals of 4 September 1952 [*S/2783 annex 8*]. These provisions are based on the two UNCIP resolution. Paragraph 8 merely states that demilitarization—according to plan to be framed under other paragraphs—shall be carried out in such a way as to involve no threat to cease-fire agreement. It appears that when speaking of principles or criteria, Sir Gladwyn Jebb has forgotten paragraph 7 of the proposals of 4 September 1952, which is the ony paragraph which deals with them, and has relied instead on another paragraph entirely unrelated to the question.

I would here like to the figures of the forces mentioned in the seventh paragraph of the draft resolution. As I have already said, no agreement was reached between the parties in regard to these figures. Yet these figures are now proposed for acceptance. The figures of 12,000 to 18,000 troops for the Indian side, suggested in the proposal of 16 July 1952, are entirely arbitrary. The United Nations Representative has never explained statisfactorily how these figures were arrived at. They are unrelated to the normal considerations determining the minimum need for security. Our security requirements have been fully stated in our memorandum annexed to Dr. Graham's fourth report [*S/2783, annex 5*], and have been mentioned by me already. The representative of the Union States of America has suggested [*607th meeting*] that the United Nations Representative must have arrived at these figures on the basis of the advice of military adviser. But it will be admitted that the

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security of the State being the responsibility of the Government of India, my Government must, in the discharge of that responsibility, be guided by the advice of its own military advisers. No outside advice can supersede that of those who are themselves responsibile for carrying out the obligations of the security and protection of the State. It will be recalled that the United Nations Representative at one time suggested that the figures of the forces to be retained on both side should be in proportion of the respective forces at the time of the cease-fire. That proposal also was not based on any principle but on a randum formula, wholly inapplicable to the fact of the case. Wa have already stated that 21,000 troops is the absolute minimum which our military advisers consider necessary to discharge their commitments for the security of the State. Any alternative figures must be justified on realistic considerations of security, and not be put forward merely as a matter of political bargaining or appeasement.

The representative of the United States has said that the quantum of forces within certain ranges suggested by Mr. Graham in some earlier proposals represents his "considered judgment" based on "his own study of the principles or criteria which he latter put to the parties". This statement is, in our-view, incorrect. It also appears to show misunderstanding of Mr. Graham's functions as defined by himself. Mr. Graham said in his statement of 29 May 1952 [*S/2783, annex I*] that his position was that of mediator, and that if any approach suggested by him was not acceptable to one or both Governments, he considered it his duty as mediator to find another approach. His definition of his functions was accepted by both parties. It is on this basis that we have given Mr. Graham our co-operation. Nor can we agree with the arugment that Mr. Graham has accepted the view that the remaining forces on the other side of the cease-fire line should be the so-called *Azad* Kashmir forces. Irrespective of Mr. Graham's views, however, we have made our position clear in this respect. These so-called *Azad* forces are no other than regular Pakistan army forces under a different name. We cannot agree to any so-called *Azad* or any other military formations remaining on the other side.

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I now come to the question of the character of the forces, which, as the Council is well aware, is basic to our position. Yet the draft resolution ignores this point and thereby makes the proposal unrelated to the issue to be resolved. Indeed, in Sir Gladwyn Jebb's speech, there is only one, and a somewhat oblique reference to this essential principle. Sir Gladwyn Jebb observes [*606th meeting*] in regard to the question of character of forces :

> "I would simply say that we would hope that agreement could quickly be reached, based on the principle I have mentioned earlier that at no stage should demilitarization involve a threat to the cease-fire agreement".

And the conclusion which he draws from this statement is : "This would mean that the forces on each side of the cease-fire line should be, broadly speaking, of the same kind." Sir Gladwyn Jebb again appears to overlook paragraph 7 of the proposals of 4 September 1952 and to concentrate his attention on paragraph 8, which bears little relation to this issue. An issue so basic to the problem of demilitarization, or to any agreement in relation to it, cannot be so overlooked or ignored. To do so is to go behind the terms of the UNCIP resolutions which have been agreed on and adopt a position unfavourable to India. It can rest only on the totally inadmissible basis of equating the aggressor with the victim of the aggression.

In another place Sir Gladwyn Jebb refers to the requirements of security on each side—I repeat the words "each side" —of the cease-fire line. It is difficult to understand what precisely this means. It has no basis in the UNCIP resolutions or in any of Dr. Graham's proposals. The United Nations Commission for India and Pakistan has clearly laid down, and the United Nations Representative has endorsed the principle, that the security of the State is the sole responsibility of the Government of India. Any attempt to revise this basic principle is a violation of the fundamental principles on which mediation has been carried on and, further, to which the parties themselves have subscribed.

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The general approach which the United Kingdom representative has put forward in explanation of his draft resolution is completely inconsistant with and contrary to the principles underlined in the UNCIP resolutions. We have not accepted this approach at any time and can never accept it. To do so is to recognize the right of an aggressor to keep armed forces in, and to exercise authority over, our territory.

My Government was unable to accept [*539th meeting*] the Security Council resolution of 30 March 1951 [*S/2017/Rev. 1*] as we did not agree to the terms of reference contained in it, and because it sought to impose a decision upon us. But because of our earnest desire to arrive at a peaceful settlement, we gave our full co-operation to the United Nations Representative. We wish to make is clear that we cannot accept any decisions which violate the two UNCIP resolutions on which the parties have agreed. But we are always, as hitherto, willing to extend our co-operation in the exploration of, and indeed to explore ourselves, every avenue which may lead to a peaceful solution of the problem that does not ignore or violate the basic principles which are vital to a correct appreciation of the problem and which have been accepted by UNCIP and the parties themselves.

I feel I ought to say that in all the long and protracted proceedings and procedures in respect of this matter, the Security Council has failed to address itself to the central issue before it, that is, the complaint which we laid before the Council. That complaint is one of aggression on our territory by Pakistan. The United Nations Commission has admitted the fact of this aggression, althouh in a brief and indirect reference to it. We have, however, repeatedly drawn attention to it, and although the Security Council has till now failed to pronounce itself on this central issue, we have, in our earnest desire for a peaceful settlement, co-operated in the many plans and attempts to find a solution of this problem It will be remembered that it was at our instance that a cease-fire was agreed to at the end of 1948. We have also repeatedly declared that on no account would we initiate military operations and that we ould continue to seek a peaceful settlement. Pakistan, though invited by

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us to do so, has refused to make this declaration. On the contrary, constant therats of hole war (jihad) have been, and continue to be, hurled at us from across the border.

The Council has heard from Dr. Graham that the parties have accepted the first of his proposals, and thereby reaffirmed their determination to adhere to peaceful procedures with regard to the Kashmir question. Similarly, the parties have agreed to paragraph 2 of the proposals, and thereby undertaken to discourage warlike propaganda in relation to this question. Yet, only a few weeks ago, when Dr. Graham was reporting to the Council [*695th meeting*] that the two sides had so agreed and that they would not resort to force or war to seek a settlement of this question, the conference of the ruling party in Pakistan, the Muslim League, at its session at Lyallpur under the chairmanship of no less a person than the Prime Minister of Pakistan, passed resolutions and made statements threatening aggression and war against us. After the denouncement in a resolution of what was described as an attitude of "inordinate delay and malicious inaction" on the part of the United Nations, which Organisation was stigmatized as moving "only in the imperial interests of the United States of America and its allies" the Government of Pakistan was called upon to "take direct action for the liberation of Kashmir".

Sir Gladwyn had rightly expressed the sentiments, shared by us all, of "deep satisfaction" about the agreements referred to by Dr. Graham. We venture to hope that he feels and will express his sense of disappointment at the disregard and disavowal by one of the parties of this peaceful undertaking and at its resort to threats of war.

As I have already said, the Security Council has failed to address itself to the central and basic issue of the aggression against us. Evasion and misrepresentation has served to cloud this plain and straight forward issue and to bar the way to a solution. We cannot permit ourselves to act in disregard of principles or to abandon agreements which already exist. The origins of the dispute and the principles on which the UNCIP resolutions are based are among these. Any consideration of

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the problem must proceed on the clear and unequivocal recognition of the authority of the Jammu and Kashmir Government over the entire territory of the State, of the fact that the State, by virtue of its accession to India, became a part of the territory of the Indian Union, and of the Government of India's responsibility for the security of the State against external aggression. This leads inevitably to the conclusion that all armed forces must be removed from the Pakistan side of the cease-fire line, and that Pakistan should exercise no authority whatsoever over the area which it has invaded.

We do not seek to go behind the UNCIP resolutions, or to ignore the vital elements of principle contained in them. The draft resolution before us appears to do so. We have always adhered to the UNCIP resolutions. Our difficulty has been that repeated attempts have been and are being made to by-pass them, both in the letter and in the spirit. We cannot be a party to the reversal of previous decisions taken by the United Nations Commission with the agreement of the parties.

So far as the draft resolution before us is concerned, we must reject the proposals coutained in it. As I have already said, the Government of India is prepared, asa lways, to cooperate in and to persevere in the exploration of all peaceful procedures for the settlement of this problem, so long as they are not consistent with the basic principles to which I have referred. From these we cannot deviate.

Mr. ZAFRULLA KHAN (Pakistan) : There is at least one sentence in the statement made just now by the fair and distinguised representative of India with which I can express entire agreement. It is the sentence : "Evasion and misrepresentation has served to cloud this plain and straightforward issue and to bar the way to a solution." But it would take a little time to try to explain to the Council where the evasion and misrepresentation lie. I shall, therefore, beg for a little time to prepare and submit a reply to the allegations and the criticisms that have been offered on behalf of India both with respect to Pakistan and with respect to the resolutions to which both India and Pakistan have already agreed, and the imple-

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mentation of which is the only subject-matter of consideration before the Council and the subject-matter of cotroversy between thc two parties.

145. *Text of the speech made by Mr. Zafrulla Khan (Pakistan) in the Security Council meeting No. 609 held on 16 December 1952.*

I find myself this afternoon in a position of some embarrassment in having to attempt a reply to the statement which the representative of India made at the last meeting of the Security Council. The statement contained certain charges against Pakistan which no country could let pass without challenge. On the other hand, I have always had so much esteem for the representative who spoke on behalf of India and continue to entertain such respect, esteem and—if I may say so without impertinence—affection for her that I am afraid lest anything I might say should in the slightest degree jar on her feelings. I shall try to avoid that. I can fully appreciate that she had to put her Government's case has her Government saw it. I am not making any complaint whatsoever: I am sure the Security Council and the representative of India will appreciate that I, also, have to put my side of the case—first, with reference to the allegations which were made against Pakistan and, secondly, with reference to the merits of the dispute as it stands today and the draft resolution now under discussion.

In the forefront of the submission made on behalf of India was the charge that Pakistan had been guilty of aggression—not once, but twice—against a neighbouring, friendly State, a fellow Member of the United Nations. That is a very grave and serious charge. When it was said that Pakistan had been guilty of aggression against a neighbouring, friendly State, a Member of the United Nations, obviously, the allegation was based, to start with, on the assumption—altogether apart from the facts—that Kashmir was part of the territory of India.

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I shall proceed to explain to the Security Council—although the greater part of my submission will not be new to the permanent members—that both the above-mentioned allegations are without foundation.

It was said that Pakistan had been guilty of aggression, first, by aiding the tribesmen who invaded Kashmir in the autumn of 1947 and, secondly, by sending its own forces into the territory of Kashmir on 8 May 1948. In order to appreciate the situation, it is necessary to go into the background of the partition of the sub-continent into India and Pakistan, although it will not be necessary to go into it in any detail.

The basis of partition, as set out in the statement of 3 June 1947 of the then Prime Minister of the United Kingdom, was that Pakistan would comprise contiguous Muslim-majority areas in the north-west and the north-east of the sub-continent, and India would be constituted an independent sovereign State and would comprise contiguous non-Muslim-majority areas. That was the basis of partition. I shall read out the relevant sentences from paragraph 9 of the statement of 3 June 1947 to which I have referred. Before I do that, however, I might explain that a boundary commission was to be set up to determine what were the Muslim-majority areas and the non-Muslim-majority areas, and the sentence that I am about to quote relates to the terms of reference and the functions of this boundary commission. The statement reads :

> "It will be instructed to demarcate the boundaries of the two parts of the Punjab on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslims".

The statement goes on to say "Similar instructions will be given to the Bengal boundary commission", but we are here not concerned with what happened on the eastern side.

That is the point, then, from which we start: that British India was to be partitioned on the basis of contiguous majority areas of Muslims and contiguous majority areas of non-Muslims. But that did not solve the whole question. On the sub-continent, there were large areas governed by Indian rulers, which were known as the Indian States. With regard to

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the Indian States, it was decided that each State would have the choice of acceding to Pakistan or to India, as it might desire. That was the constitutional position: each State would have a choice—although, of course, as explained by Lord Mountbatten, the then Governor-General, each State, in making its choice, would no doubt have regard in many factors—geographical position and other factors—that might affect the situation.

In actual practice, it was quite clear what would happen in the case of the majority of them. With regard in the majority of the Indian States, no problem would arise, as the geographical position itself would determine to which Dominion the State should accede.

It was apprehended, however, that problems might arise which would lead to trouble with regard to States in which the ruler was a Muslim, say, and the majority of the people of the State were non-Muslims, or vice versa. There were several such States. One might cite as instances Kashmir, Junagadh, Hyderabad and Kapurthala. In Kashmir and Kapurthala, the ruler was a Hindu and the majority of the population was Muslim; in Junagadh and Hyderabad, the ruler was a Muslim and the majority of the population was Hindu.

So far as Kapurthala is concerned, unfortunately the question did not arise or, rather, was not permitted to arise. I say "unfortunately" in view of the circumstances which rendered it unnecessary for a decision on accession to be taken: Kapurthala had a population that was 61 per cent Muslim. During the tragedy that over-took that part of the Punjab at the time of the partition, the whole of this Muslim population was either murdered or driven out of the State, so that no Muslim was left to raise any question with regard to the accession. But the way in which this question was solved in Kapurthala had become well known. In fact, the same sort of thing happened in other States also—in Patiala, Jind, Nabah, Faridkote, Bharatpur—but there the Muslims were in a minority. The misfortunes that attended the actual carrying out of the partition as regards certain sections of the popula-

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tion, both in East Punjab and West Punjab, overtook these people also. But the question became acute with regard to Kashmir, Junagadh and Hyderabad.

Before we go on to see what actually happened in Kashmir, what was the principle to be applied in determining whether a State of that kind, in which the ruler belonged to one community and the majority of the population belonged to the other, should accede to Pakistan or should accede to India ?

As the Council is probably aware, the authority that the British exercised in respect of these Indian States was designated by the term "suzerainty". As part of the changes that took place in consequence of independence, suzerainty lapsed. It is the Indian case that, on the lapse of suzerainty, sovereignty in the Indian States was vested in the people, and that therefore any decision with regard to accession had to be taken by the people of the State.

How it would work out in practice was explained by Mr. Ayyangar, representative of India, when he spoke on this matter in the Security Council in 1948. But there is also an official pronouncement of the Government of India on the subject. It is contained in the White Paper issued by the Government of India on Hyderabad, dated 10 August 1948, from which I quote :

"The Government of India are firmly of the view that whatever sovereign rights reverted to these States on the lapse of paramountcy, they vest in the people, and conditions must be created in every State for a free and unfettered exercise of these rights".

Mr. Ayyangar, speaking in the Security Council on behalf of India on 15 January 1948 [*227th meeting*], said :

> "On the question of accession, the Government of India has always enunciated the policy that in all cases of dispute the people of the State concerned should make the decision".

On 8 March 1948, speaking before the Security Council

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[*264th meeting*]—this time, on the subject of the Junagadh—Mr. Ayyangar said :

> "No doubt the Ruler, as the head of the State, has to take action in respect of accession. When he and his people are in agreement as to the Dominion to which they should accede, he applies for accession to that Dominion. However, when he takes one view and his people take another view, the wishes of the people have to be ascertained. When so ascertained, the Ruler has to take action in accordance with the verdict of the people. That is our position."

Therefore, we have this position clearly set out: that, where there is a difference of opinion between the ruler and the people with regard to accession, although the ruler is the instrument through whom the choice is to be expressed, the choice must be that of the people.

What happened in Kashmir ? In Kashmir. as early as August 1947, people in certain parts of the State revolted against the authority of the Maharajah, the root of the trouble being their suspicion, or their fear, that the Maharajah was inclined to accede to India. As the Council is aware, the overwhelming majority of the people of Kashmir are Muslims; and Maharajah is a Hindu. That revolt started in August. A Press note was issued by the Government of the Maharajah on 12 September 1947 from Srinagar, giving an account of the origin of these disturbances which developed into the revolt. It starts with setting out the beginnings of the trouble in Bagh, Sidhnutti and Poonch Tehsils early in August. It then goes on to describe incidents that occurred during the month of August—on the 24th, 25th and 26th—and describes how the troops came into conflict with the people, and thus the movement spread.

Later on, *the Times* of London also summarized the origin of this trouble in the following words :

> "In the remaining Dogra area 237,000 Muslims were systematically exterminated, unless they escaped to

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Pakistan along the border, by the Dogra State forces, headed by the Maharajah in person and aided by Hindus and Sikhs. This elimination of two-thirds of the Muslim population of Jammu province has entirely changed the present composition of the Eastern Jammu province."

Helen Kirkpatrick, an American journalist, wrote in the *New York Post* of 13 May 1948 to the following effect—I quote from her dispatch :

"Can India deny that the Kashmiris rebelled against the despotic rule of their Hindu Maharajah in August, two months before the so-called raiders entered Kashmir ?"

This proves beyond a shadow of doubt that, as early as August, the people of Kashmir had revolted against the authority of the Maharajah in respect of this question of accession. No further proof is needed that there was of dispute—and an active dispute, resulting in the revolt, in the defeat of the Maharajah's troops, and in the Maharajah having to leave his capital, Srinagar—regarding this question of accession.

But here is further proof, if any further proof is needed. On 21 October 1947, Sheikh Abdulla, at present Prime Minister of Kashmir, gave a Press statement in Delhi, from which I quote :

"The happenings in certain States, such as Patiala and Bharatpur and elsewhere have, naturally, caused apprehension in the minds of the Muslims in Kashmir, who form the majority of the population. They were afraid that the State's accession to India protended danger to them. The present troubles in Poonch were because of the unwise policy adopted by the State. The people of Poonch, who suffered under their local ruler and, again, under the Kashmir Durbar, who was the overlord of Poonch, had started a people's movement for redress of their grievances. It was not communal. The Kashmir State sent their troops and there was panic in Poonch, but most of the adult population of Poonch were ex-servicemen in the Indian Army who had close connexions with the people in

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Jhelum and Rawalpindi. They evacuated their women and children, closed the frontier, and returned with arms supplied to them by willing people. The present position was that the Kashmir State forces were forced to withdraw in certain areas."

All this had happened before a single tribesmen ever entered the territory of Kashmir.

Was this aggression by Pakistan, or was this tyranny by the Maharajah of Kashmir ? The fact is that there did exist this freedom movement in Kashmir, which swelled into a revolt. As I have said, the Maharajah's forces were defeated in that area and the Maharajah was forced to flee from the capital. He asked for military aid from India. In these circumstances, the people objected to his inclination or desire to accede to India. Not only was there a difference between them ; a revolt had started. He appealed to India, asking for military aid to deal with the situation. India made it clear that it could not give him military aid unless he offered to accede. He wrote a letter of accession, as dictated by Mr. Menon, the Secretary of the Government of India, dealing with the Indian States. The letter itself is proof of his meaning. That was on 26 October 1947.

Lord Mountbatten, then Governor-General of India, signified his acceptance of the accession on 27 October. Already, on the morning of 27 October, Indian troops had occupied Kashmir.

Was this aggression by Pakistan ? Or was this aggression by India against the people of Kashmir, in support of the tyranny of the Maharajah ?

The acceptance by India of this letter of the Maharajah's created no legal relationship between Kashmir and India. The Maharajah was not prepared to submit the issue of accession to a referendum in order to ascertain the will of the people, and the Dominion of India, in utter disregard of the wishes of the people and principles governing the matter, purported to enter into an arrangement by which Kashmir should become a part of the Union of India. The Government of Pakistan could not be expected to acqiesce in such an arrangement.

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The acceptance by India of the so-called accession of Kashmir could not but be regarded by the Government of Pakistan as an encroachment on the sovereignty and territory of Pakistan and inconsistent with the friendly relations that should have existed between the two dominions. This action on the part of India was considered by the Government of Pakistan to be a clear attempt to cause disruption in the integrity of Pakistan by extending the influence and the boundaries of the Dominion of India in utter violation of the principles on which partition was agreed upon and effected. The responsibility for the consequences that ensued from this action rests squarely on the shoulders of the Indian Government. I do not know whether the representative of India would agree with me in this view of the matter, but I assure the Security Council that the Prime Minister of India agrees with me.

Let me explain. Shortly after partition, Junagadh, a State in a position the reverse of that of Kashmir in people were Hindus, acceded to Pakistan. Up to then, people were Hindus, acceded to Pakistan. Up to them, no incident of any kind had happened in Junagadh to mark any difference in this matter between the people of Junagadh and the ruler. I am not saying that they supported this action but I do say that there was no trouble of any kind in Junagadh over the question at that time. Thereupon the Prime Minister of India made the following statement to the Prime Minister of Pakistan on 12 September 1947 in his telegram on this subject :

> "The Dominion of India would be prepared to accept any democratic test in respect of the accession of the Junagadh State to either of the two Dominions. They would, accordingly, be willing to abide by the verdict of its people in this matter ascertained under the joint supervision of the Dominion of India and Junagadh.
>
> "If, however, the ruler of Junagadh is not prepared to submit this issue to a referendum and if the Dominion of Pakistan, in utter disregard of the wishes of the people and the principles governing the matter, enter into an arrangement by which Junagadh is to become a

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part of the Federation of Pakistan, the Government of India cannot be expected to acquiesce in such an arrangement."

He therefore agreed with me that the action of his Government in respect of Kashmir in accepting or purporting to accept an offer of accession in circumstances where not only was there a difference between the wishes of the people and the wishes of the ruler but people had made that difference manifest most emphatically, was, in the words of the Prime Minister of India cannot be expected to acquiesce in." Similarly, the Government of Pakistan cannot be expected to acquiesce in such an arrangement. And here an attempt is made to persuade the Security Council that the entry of tribesman into Kashmir territory in support of the movement to which I have referred, on 22 October 1947, four days before this letter of the Maharajah's was even written, was an act of aggression on the part of Pakistan against India.

On 22 September 1947, there was a further telegram from the Prime Minister of India on the same subject, from which I quote :

"The Pakistan Government has unilaterally proceeded to action in which it was made plain the Government of India could never and does not acquiesce. Such acceptance of accession by Pakistan cannot but be regarded by the Government of India as an encroachment on Indian sovereignty and territory and inconsistent with the friendly relations that should exist between the two Dominions.

"This action of Pakistan is considered by the Government of India to be a clear attempt to cause disruption in the integrity of India by extending the influence and boundaries of the Dominion of Pakistan in utter violation of the principles on which the partition was agreed upon and effected. In these circumstances, I hope that it will be possible for you to prevail upon the Government of Pakistan to reconsider their attitude on accession of Junagadh. But if the matter is not reconside-

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red, the responsibility for the consequences must, I am compelled to inform you, rest squarely on the shoulders of the Pakistan Government.

"The Government of India are, however, still prepared to accept the verdict of the people of Junagadh in the matter of accession, the plebiscite being carried out under the joint supervision of the Indian and Junagadh Government."

Apart from the character of the attempt of accession, the way in which the Government of India regarded it and the principles that it insisted must be applied to such cases, it is also interesting to note, in view of further developments in respect of Kashmir, that in the view of the Government of India the fairest way of ascertaining the wishes of the people of the Junagadh State on this matter was to hold a plebiscite under the joint supervision of the Junagadh Government, that is to say the Government of the State, and of the Government of India, that is to say the Government of the Dominion to whom on the basis of the majority principle accession should have taken place. The Government of Pakistan was not to have any share in the arrangements under which these wishes were to be ascertained.

Those were the principles applicable to the question of accession. Sovereignty rests in the people. Though the instrument for intimating the decision on accession was to be the ruler, where there was a difference between the ruler and his people, their wishes were to be ascertained and the verdict of the people were to be communicated by the ruler for the purposes of accession. Nothing else would be accepted. Nothing else could be valid. Apply these tests to Kashmir. In those circumstances, in the words of the Prime Minister of India himself, the aggression was by India and not by Pakistan, though it is also worth remembering that the tribesmen had entered Kashmir, as I have said, four days before this letter of the Maharajah's was even written. So much for the first alleged aggression by Pakistan against a neighbouring, friendly State, a Member of the United Nations.

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Now we come to the second alleged aggression. This matter was brought before the Security Council in a letter of 1 January 1948 from India [*226th meeting*]. I do submit that throughout, before the Security Council, the effort of India was to secure the withdrawal of the tribesmen so that Indian armed forces could then crush the freedom movement by military action. That was all that they asked for, insisted upon and continued to work for when the matter was being debated before the Security Council during the winter of 1948. Sheikh Abdullah said as much to the then President of the Security Council, Mr. van Langenhove of Belgium, who, at the suggestion of the Security Council, was trying to arrange a settlement by conversations between the parties. Sheikh Abdullah's words were: "Get the tribesmen out and we shall do the rest."

The Security Council persistently refused to endorse that position. To start with, its first resolution [*S/651*] of 17 January 1948 [*229th meeting*] made this appeal to the two parties:

"*The Security Council,*

"*Having heard* statements on the situation in Kashmir from representatives of the Governments of India and Pakistan,

"*Recognizing* the urgency of the situation,

"*Taking note* of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto in which they affirmed their intention to conform to the Charter,

"*Calls upon* both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation..."

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Then I must draw attention to just one or two extracts from the statements of members of the Security Council indicating the attitude that the Council adopted on this matter of trying to bring about a decision by military action, which was the desire and the effort of India.

Addressing the Security Council on 28 January 1948 [*236th meeting*], Mr. Noel Baker said the following :

> "The cause which is now in dispute here, the cause of the fighting in Kashmir, is the question : To which of the two Governments. India or Pakistan, shall Kashmir accede ? In my conception, infinitely the best way to stop the fighting is to assure those who are engaged in it that a fair settlement will be arrived at under which their rights will be assured. In other words, as I remarked to the representative of India in our first talk after his arrival, in my profound conviction, a settlement arrived at quickly in the Security Council is the real way to stop the fighting. The whole thing, from the preliminary measures as to the fighting, right up to the conduct of the plebiscite in the end, is all one problem. Only when the combatants know what the future holds for them, will they agree to stop."

That is how the Security Council wanted the fighting to be stopped.

Senator Warren Austin, speaking on 29 January 1948 [*237th meeting*], said the following :

> "No one wants to see a superior force sent into the Kashmir area to drive out the invaders of that area. Everyone, we assume, wants to see this situation so settled by an agreement that it will not be necessary to use any force to carry it into effect."

Later, in the same speech, he said :

> "Of course, we can see that a superior military force could be employed to drive out the trespassers in Kashmir and Jammu and to force the battle line off this

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ground, but that might not and the military character of this problem, that might not settle the matter. On principle and on the impracticality of such a method. I think we have to discard the idea of using force and thus separating this question of the military problem from the other question of a fair plebiscite."

What action did the Security Council take in respect of this problem? First, a draft resolution [*S/667*] was proposed on 6 February 1948. The Security Council proceeded with its discussion. The six sponsors of the draft resolution spoke in favour of it and explained it, and this is what it sought to provide. I shall not quote the whole resolution, but paragraph 4(*c*) said the following :

> "Regular armed force in aid of the establishment and maintenance of order must be made available. In this connexion the Governments should seek to ensure co-opeartion between their military forces to establish order and security until the question of accession shall be determined by the plebiscite."

This was not only a clear exhortation but a direction that the military forces of the two Governments, the Government of India and the Government of Pakistan, should seek to ensure co-operation so as to establish order and security. We all know that when the Security Council was about to vote on this draft resolution the delegation of India, under instruction from their Government, withdrew from the Council. Ultimately, a resolution was adopted by the Council in 21 April 1948 [*286th meeting*]. I shall draw attention to two of the provisions of that resolution [*S/726*].

Paragraph 2(*a*) reads as follows :

> "When it is established to the satisfaction of the Commission···that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective", the Government of India "shall put into operation in consultation with the Commission a

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plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order."

Paragraph 5 reads as follows :

"If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification."

I have quoted these paragraphs to show the attitude of the Security Council towards this problem. But as I have said on the other hand. India was bent upon securing a military decision. The representative of India said the other day [*608 meeting*] that this second alleged aggression by Pakistan took place at a time when the matter was pending before the Security Council. It would therefore be helpful to see what it is that the Security Council is seeking to do.

It is true, as I have already said, that the resolution of 6 February 1948 was not adopted because India withdrew, and the resolutian of 21 April 1948 was adopted, but India rejected it. However, that does not affect the attitude of the Security Council as exhibited by the draft resolution of 6 February and the resolution of 21 April 1948. That being the attitude of the Security Council, and having itself brought the case before the Council, India was making on-the-spot preparations to launch an offensive so as to bring about a military decision.

Who was the aggressor? During the latter part of March and the whole of April 1948, when these preparations were going forward, a limited offensive had already been mounted. Certain areas had already been taken from the other side. Who was the aggressor ? Was Pakistan the aggressor?

I have said that preparations for a military offensive were being made. On 15 March 1948, in the middle of the discussions before the Security Council, the Indian Defence Minister

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announced in the Indian Constituent Assembly that the Indian Army would clear out all resistance from Kashmir's soil in the next two or three months.

This is a public declaration. No further proof is needed. But here is more. On 13 April 1948. *The Times* of London published a dispatch from its special correspondent in Srinagar, in Kashmir, in which it stated the following :

> "The Indian Army has worked extremely hard during the winter months and its position has been much improved..."

Further on, the dispatch says :

> "To improve communications a daily air service has been organized, although weather conditions will make flying unsafe for at least two or three weeks. But the force has been considerably strengthened and it should soon be ready for a limited offensive. Already some units have advanced from Rajauri in Jammu and from Uri, and some small successes have been reported. Fighting is bloody. Few prisoners are taken and acts of barbarism have been committed by both sides. Many Pathans have been decapitated by Sikh troops."

Here was a public declaration by a responsible Indian Minister, by the Minister responsible for this matter, in the middle of March. Here are reports of these preparations in the middle of April. On 20 April, the Commander-in-Chief of the Pakistan Army submitted to the Pakistan Government an appreciation of the military situation. It is a long appreciation, but I shall quote only certain portions. It reads as follows :

> "*General military situation* : (*a*) The build-up of the Indian Army for an all-out offensive in Kashmir started towards the end of February 1948, at a very rapid rate. Eight brigade troops, complete with supporting arms, artillery, armour, engineers etc., backed by a considera-

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ble air force of fighters, bombers and transport aircraft are at present deployed in Jammu and Kashmir and the process of building up continues, but appears to be almost complete now. On 15 March 1948 the Indian Defence Minister announced in the Indian Constituent Assembly that the Indian Army will clear out the so-called raiders from Kashmir within the next two or three months. So far the main concentrations are in the south, that is, in the area of Jammu-Naushera at least one additional brigade is already reported to have moved into the Valley. There are also indications of two separate commands being organized, one in the Valley and one in the Jammu area. The offensive on a limited scale appears to have started already and Rajauri was captured by Indian troops on 12 April. This was followed by a reign of terror which includes the burning of villages, and the massacre of civilian population, and other atrocities. Four thousand men are reported to have been victimized in this manner and great panic and confusion prevailed in the area.

"(*b*) *Deduction* : It is obvious that a general offensive is about to start very soon now. The present dispositions suggest that it will first start in the south with Bhimbar and Mirpur as the most likely objectives with a view to coming right up to the Pakistan border".

Then I will quote the summary of his deductions :

"*Summary of deductions* (*a*) : That a general offensive is being planned by the Indian Army in the north and the south is a certainty. Their objectives are likely to be as follows : south : (i) Bhimbar-Mirpur, (ii) Poonch; north: Muzaffarabad-Kohala.

"(*b*) Judging from what has happened in Rajauri, an advance by the Indian Army in one of the above areas is almost certain to create a big refugee problem for Pakistan, which is already saturated. Refugees will be an

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extremely serious strain on the civil administration and a heavy drain on the country's economic and financial resources. From this point of view alone, it is imperative that the Indian Army be prevented from gaining any of the above objectives.

"(*c*) Occupation of Bhimbar and Mirpur will give India the strategic advantage of having crossed two major obstacles, i.e., the rivers Ravi and Chenab, and of coming right up to the Pakistan border, thereby sitting on our doorsteps, threatening the Jhelum bridge which is so vital for us, and getting further opportunities for intrigue. It will also give them the control of the Mangla Headworks, thus placing the irrigation in Jhelum and other districts at their mercy.

"(*d*) Occupation of Poonch by the Indian Army is certain to have a most serious effect on the morale of many Poonchies in the Pakistan Army and this in turn will adversely effect the morale of other troops. Desertions will undoubtedly increase and discipline will receive a big set-back.

"(*e*) The loss of Muzaffarabad or Kohala will, broadly speaking, have the most far-reaching effects on the security of Pakistan. It would enable the Indian Army to secure the rear gateway to Pakistan through which they can march in at any time they wish to do so, without any major obstacle such as the river Jhelum to stand in its way..."

"*Recommendations* : If Pakistan is not to face another serious refugee problem with about 2,750,000 people uprooted from their homes; if India is not to be allowed to sit on the doorsteps of Pakistan, to the rear and on the flank, at liberty to enter at its will and pleasure; if civilian and military morale is not to be effected to a dangerous extent; and if subversive political forces are not to be encouraged and let loose within Pakistan itself,

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it is imperative that the Indian Army should not be allowed to advance beyond the general line Uri-Poonch-Naushera."

That was the appreciation made by the Commander-in-Chief, a distinguished British soldier on 20 April 1948. On this side, the Security Council had for the moment concluded its hearing of the Kashmir case. The Commission set up by the Security Council to go to the sub-continent in order to bring about a settlement of the Kashmir question had not yet arrived on the sub-continent.

The offensive was launched. Among other objectives, as detailed by the Commander-in-Chief, was the capture of the Mangla Headworks. If I were to leave the matter there, it could be said: "The capture of a headworks" is only a phrase. What does it matter when compared with other factors which have been outlined? But, here, another diversion is necessary.

The partition of the Punjab cut across the river system of the Province. The Province is so identified with its river system that its very name means "The Land of the Five Rivers" (Punj : five; Ab : water, or river). Before partition, in both East and West Punjab—but mainly in the west—a splendid irrigation system had been built up, upon which 90 per cent of the prosperity of the Province depended. The partition line was so drawn that two of these rivers—Sutlej together with its tributary, Bias, and Ravi—while originating in India, later on flow into Pakistan. To other rivers, on the western side—Indus and Chenab—while originating in India, flow through Kashmir and then into Pakistan. One of the middle rivers, Jhelum, originates in Kashmir and flows into Pakistan. That is the only river the upper reaches of which do not lie within Indian territory.

In the assessment of the value of the assets that were to go to each portion of the Punjab after partition, India was awarded by the tribunal set up for the purpose, not its proportionate share of the original cost of the irrigation system, but twice the original cost. India contended that, in the meantime, the value of the whole of the irrigation system had considera-

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bly increased. The tribunal accepted that contention and awarded India, as I have said, an amount equal to twice the original cost of the system.

The tribunal was dissolved on 31 March 1948. On 1 April 1948, having received this compensation, India turned off the waters of these rivers which used to flow into Pakistan. India did this inspite of the principles of international law applying to such a situation. I ask the Security Council to set that date—1 April 1948—against the dates which I have already given.

Again, it is correct to say that the greater part of the flow of these waters was restored six weeks later under a temporary agreement imposing most onerous conditions upon Pakistan. But that is beside the point. India exercised this control upon the waters of these rivers flowing through its territory: the day after the tribunal was dissolved, India turned off every drop of water which Pakistan had formerly received and in respect of which India had already received compensation from the tribunal.

In countries where there is already an abundance of water, and especially in countries where the problem is always one of drainage rather than of irrigation, the seriousness of the consequences following upon India's action in turning off the waters may not be fully appreciated. But for a country where every drop of water means reviving the dead, parched earth, where in many areas every drop of water means drinking water for cattle and for men's food and sustenance—in fact,the maintenance of human life itself—India's action was most callous.

As a result of India's action, the Mangla Headworks were again in danger. The Mangla Headworks—and I now revert to Kashmir—controlled the flow of the Jhelum River with regard to the irrigation system based upon the river in West Punjab. The Headworks be inside Kashmir territory. The military offensive launched by India in the spring of 1948 had as one of its objectives the capture of those Headworks.

That was the situation with which Pakistan was faced through the month of April 1948. In that situation, the

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Pakistan Government decided to send in its own troops to stop the further advance of the Indian army towards the Pakistan borders and to prevent the Headworks from being captured. Pakistan had no international obligation of any kind towards India in respect of this territory. The claim made by India in respect of the territory was based entirely on the Maharajah's letter of 26 October and Lord Mountatten's reply. But Lord Mountbatten's reply itself has said that the question of accession would be decided in accordance with the wishes of the people. In any case, there was, according to the Prime Minister of India himself, an attempt to disrupt a neighbouring, friendly State Pakistan took the minimum action which it was obliged to take. The authorities in Pakistan would have been traitors to their trust had they not taken that action. We attempted no occupation of Indian territory. We attempted no fresh occupation by anybody—least of all by our troops—of any portion of Kashmir territory. All that we did was to ward off the dangers to which the Commander-in-Chief referred.

Dealing with this aspect of the matter on 8 February 1950 [*464 meeting*], I made this submission to the Security Council—and I would beg the Council's indulgence to quote from my statement :

> "I put it to the representatives on the Security Council that if they, in their respective spheres, were charged with the responsibility of the defence and the security of their own countries; and they received this report from their Commander-in-Chief—and in this case it was not a Pakistan national who had made the report : the Commander-in-Chief was and is General Sir Douglas E. Gracey, a distinguished British officer—if they had received this report which every-thing else reinforced and supported : the reports of foreign observers to their newspapers, the speeches of Indian statesmen and their Defence Minister both in public and in the Constituent Assembly, and if they were convinced that this was the situation, what is the very least that they would have

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done in the circumstances ? Pakistan did that very least and no more. It sent in its troops to hold that line.

"Yesterday, the representative of India said that that was an act of aggression. Did the representative of India expect that the Indian Army should march victoriously forward, crush this freedom movement of which I have now given some slight, inadequate picture to the Security Council, and occupy the whole of the State militarily ? India had rejected the Security Council's resolution of 6 February [*S/667*] ; it had rejected the Security Council's resolution of 21 April [*S/726*] ; it was not willing to hold a plebiscite under any conditions that would approximate to conditions which would ensure a free and impartial plebiscite. India's avowed object was to occupy the whole State militarily and that action, in addition to what it would have done to Kashmir and the Kashmiris, would have put the whole situation of Pakistan in jeopardy and would have put out of action one of the principal irrigation projects. I say again to the Security Council, what is the minimum that any one responsible for the defence of Pakistan would have done ? That is the minimum that we did."

I repeat : had the Government of Pakistan done less in the circumstances than it actually did, it would have been a traitor to the trust which it had undertaken. It was not aggression. It could not possibly have been aggression because the territory in respect of which this action was taken had at no time, in any circumstances, been under the control or the military occupation of India, even as the result of that accession to which reference has been made. Not one inch of that territory was ever occupied by the Pakistan forces. So much for the second alleged aggression.

I regret I have had to take so much of the Security Council's time in going over this ground—for the second, or almost the third, time, The Council will, however, appreciate that, as I have said earlier, it is not possible to sit silent when before

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this international forum the responsible representative of a great Government of a great country levels charges of that description against a neighbour.

As I have said, India's whole argument in this respect is based on the assumption that there was a valid accession of Kashmir to India. This assumption is entirely erroneous. It is utterly unfounded. It has never been accepted by Pakistan or by the Security Council. As I have said, in his reply of 27 October 1947 to the Maharajah's letter of 26 October, Lord Mountbatten made the following statement :

> "Consistently with their policy in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that, as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of the State's accession should be settled by a reference to the people..."

That is the very question to be decided : whether the State shall accede to India or to Pakistan. There has at no time been any accession which would give rise to any legal relationship or to any legal rights—certainly not any which Pakistan could possibly accept. The telegram of 8 November 1947 sent by the Prime Minister of India himself makes that quite clear.

As a matter of fact, during the last five years, approximately, it has been the effort of the Security Council, it has been the effort of Pakistan, it has been the effort of the United Nations Commission for India and Pakistan, which was set up by the Security Council, it has been the effort of the various United Nations representatives appointed by the Security Council, to try to persuade India to do what the Prime Minister of India in his telegram of 8 November said should be done. The telegram is long; it sets out various proposals. I shall quote only paragraph 10 :

"It will thus be seen that our proposals, which we have repeatedly stated, are : (1) that the Government of Pakistan

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should publicly undertake to do its utmost to compel the raiders to withdraw from Kashmir: (2) that the Government of India should repeat its declaration that it will withdraw its troops from Kashmir soil as soon as the raiders have withdrawn and law and order are restored; (3) that the Governments of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite in Kashmir at the earliest possible date."

Then, so far as the Security Council is concerned, if I may draw attention again to those resolutions [*S/667 and S/726*]—although to different provisions from those I have already quoted—this was the Council's position :

Paragraph 2 of the draft proposals of 6 February 1948 [*S/667*] reads :

> "*Considers* that it is urgent and important to stop acts of violence and hostility in Jammu and Kashmir : and to decide the question of whether the State of Jammu and Kashmir shall accede to Pakistan or to India by the democratic method of a plebiscite to be held, as recognized by the parties, under the auspices of the United Nations to ensure complete impartiality."

There, very clearly, the question is set out : that the question of accession shall, as agreed to by the parties, be decided in this manner.

Paragraph 4(*f*) of the same draft proposals reads :

> "The conditions necessary for a free and fair plebiscite on the question of whether the State of Jammu and Kashmir shall accede to India or to Pakistan, including an interim administration which will command confidence and respect of the people of the State at Jammu Kashmir, must be established."

The fourth paragraph of the preamble of the resolution of 21 April 1948 [*S/726*] reads :

> "*Noting* with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and

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Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite.' And then, in the operative part of that same resolution, we find this paragraph :

"*Recommends* to the Governments of India and Pakistan the following measures as those which in the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan". Then, in Section B, paragraph 7, this is stated :

"The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a plebiscite as soon as possible on the question of the accession of the State in India or Pakistan."

So far as the position of the Security Council and of Pakistan is concerned, it is perfectly clear. Up to a point, the position of India was also perfectly clear. But then gradually it began to be insinuated, in speeches and in documents, that the question to be decided was whether the people of the State of Jammu and Kashmir desired to continue the accession or not. That the Security Council will see later, I am constrained to observe, is on a par with the other efforts made on behalf of the Government of India to evade its obligations undertaken by way of acceptance of resolutions or agreements, or expressed through official documents.

On 21 March 1951 [*537th meeting*], the representative of the United Kingdom expressed himself before the Security Council on this aspect of the matter in the following words :

"The assumption made by the representative of India that the accession has been settled and that no more remains except to give the inhabitants of the State an opportunity to decide whether they should remain in India or not, in the view of my Government cuts right

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across the very principles on which the Council and, we have always understood, the two parties also, have been striving to effect a settlement."

At the same meeting, the representative of the United States stated before the Security Council :

"The parties, moreover, are committed to permit the people of Kashmir to decide the question of accession of the State of Jammu and Kashmir to India or to Pakistan. That commitment is not, as the distinguished representative of India has said, and I quote the words he used in the Security Council, 'To give the people the right to decide whether they would remain in India or not'. To phrase the plebiscite question in this form would be to disregard the binding agreement accepted by both parties. The Security Council has from the beginning held that the issue of accession is one which is to be settled by a fair and impartial plebiscite under United Nations auspices, and both parties, in the language of their own commitments, have accepted this view."

As the Security Council will recall, the representative of India, when she spoke the other day [*608th meeting*], insisted —and quite rightly insisted, and I endorse what she said in this respect—that there should be strict adherence to the agreement between the two Governments contained in the two resolutions of the Commission which both Governments accepted. There are two resolutions of the Commission which together form the agreement between the two Governments : the resolution of 13 August 1948 and the resolution of 5 January 1949.

The resolution of 13 August 1948 says, in part III :

"The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Govern-

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ments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured."

That was put merely as an objective. It was this part III that was subsequently elaborated in the resolution of 5 January 1949. Paragraph 1 of that resolution says this :

> "The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite."

There is no question here of continuing accession, of choosing whether to remain or not to remain with India.

The question is today really academic. This question of the validity of the accession, of the alleged aggressions by one side or the other—these matters have long been left behind. The crux of the matter, as the representative of India put in the other day, is the implementation of the two resolutions which constitute the agreement between the two Governments on this matter. Since those resolutions were accepted by the two Governments during the last week of December 1948, long after all these matters had happened and had been debated and had been clarified between the Commissson and the two Governments, these questions, as I have said, have long been academic. The events in Kashmir in August, September, October, November and December of 1947, the action taken by the Government of Pakistan on 8 May 1948—these all happened long before these two resolutions were even propounded by the Commission, let alone before they were accepted by the two parties. I would therefore beg the Security Council to remember that, although they are repeatedly raised, they have really now become a form of abuse in which the Government of India chooses to indulge against the Government of Pakistan.

Normally, it would be most unjustifiable on my part to take so much of the time of the Security Council to go over the same ground again. But the representative of India has

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solemnly adjured the Security Council to decide this question of accession if it wants this matter to be dealt with rightly. I submit that, at the time when the Government of India agreed to the resolutions, all these events had occurred, had been debated, had been mentioned to the Commission, had been considered by the Commission, had been taken into account by it; clarifications had been sought from the Commission on various aspects of its resolutions touching upon those matters, and the result had been an agreement which is embodied in these two resolutions.

With regard to these two resolutions, the representative of India 'said the other day [*608th meeting*]—and, as I have already said, I fully endorse what she stated on this matter so far as it relates to the implementation of these two resolutions:

> "We wish to make it clear that we cannot accept any decisions which violate the two UNCIP resolutions on which the parties have agreed. But we are always, as hitherto, willing to extend our co-operation in the exploration of, and indeed to explore ourselves, every avenue which may lead to a peaceful solution of the problem that does not ignore or violate the basic principles which are vital to a correct appreciation of the problem and which have been accepted by UNCIP and by the parties themselves."

The representative of India then went on to say :

> "We do not seek to go behind the UNCIP resolutions, or to ignore the vital elements of principle contained in them. The draft resolution before us appears to do so. We have always adhered to the UNCIP resolutions. Our difficulty has been that repeated attempts have been and are being made to by-pass them, both in the letter and in the spirit. We cannot be a party to the reversal of previous decisions taken by the United Nations Commission with the agreement of the parties."

As I have said, I generally agree—I do not agree with

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every word of it, with the condemnation of the Security Council or of its mediators or of the Pakistan Government—but I agree that we, on our part, are as willing and eager as the Government of India has, through its representative, professed itself to be to carry out to the fullest the implementation of these two resolutions which the parties have accepted. The only difference is this : as I shall show presently, we have a record of being willing to translate our agreement into actual fact—and equally there is a sad record of evasion on the other side.

On this point, let us see what it is that the resolutions say. The first part of the resolution of 13 August 1948 deals with a cease-fire. I need not advert to that. A cease-fire was arrived at between the parties, with effect from I January 1949, and a cease-fire line was even drawn up on the maps and on the ground on 27 July 1949. That cease-fire continues and has been reaffirmed several times.

Part II of the resolution of 13 August 1948 goes on to say :

> "Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission."

The first principle is set forth as follows :

> "1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from the State."

We have throughout adhered to that. We have at no time tried in any way to whittle down this obligation.

> "2. The Government of Pakistan will use its best

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endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting."

Although no truce agreement has yet been drawn up, we have carried into effect this obligation.

"3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission."

We adhere to that. We do not seek to exercise our authority over that territory after our troops have been withdrawn.

So far as the question of demilitarization is concerned; or the withdrawal of troops, these are the only obligations laid upon the Pakistan Government. The Pakistan Government fully accepted them. It has throughout accepted them; it has throughout been willing to carry them into effect. I quote now from section B :

"1. When the Commission shall have notified the Government of India that the tribesmen and Pakistani nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and, further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission."

"2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the

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minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commisssion will have observers stationed where it deems necessary."

These were the two obligations undertaken by the Government of India. What happend? As I have said, these resolutions—one of 13 August 1948 and the other of 5 January 1949—were accepted. On 9 March 1949 the Commission called a meeting of the military representatives of India and Pakistan in Delhi in order to settle the terms of the truce agreement in accordance with part II of the resolution of 13 August 1948. Our representatives were asked whether we had ready a scheme of demilitarization in accordance with the resolution. We said we could produce one, and we were asked to produce it. We said we could produce one, and we were asked to produce it. We said we could produce one provided India agreed to produce one of its own. On the faith of that assurance we put our scheme before the Commission on the day which had been fixed. When India was called upon to do the same, its representatives asked for more time because, they said, the Commander-in-Chief was out of Delhi. After the Commander-in-Chief returned they were asked to put in their scheme, and they said they wanted a little more time because the Prime Minister was out of Delhi. After the Prime Minister returned they were asked again, but they still hesitated, and the Commission began to feel that India was not willing at that stage to put a scheme on the table. Later, India submitted a scheme to the Commission, but laid this condition upon the Commission, namely, that the scheme was not to be disclosed to the Pakistan Government, the Pakistan military representatives, or even to the Security Council; so that up to this date, neither we nor the Security Council know what is in the Indian proposal for carrying out the obligations which it had undertaken under part II of the resolution of 13 August 1948. This is what the Commission said in respect of it, in paragraph 245 of its third interim report of 9 December 1949 [*S/1430*] :

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"...India is not prepared to withdraw such part of her forces in Kashmir as might be characterized as the 'bulk', whether measured quantitatively or qualitatively, unless agreement with Pakistan on the large-scale disbanding and disarming of the *Azad* forces is reached..."

Now, I invite the Security Council—representatives have before them these resolutions, or can easily obtain them—to determine where the resolution of 13 Agust 1948 requires the large-scale disbanding and disarming of the *Azad* Kashmir forces before the bulk of Indian forces are withdrawn. The language is perfectly clear : "A.1. ...the Government of Pakistan...agrees to withdraw its troops from that State. 2. ... withdrawl from the State of Jammu and Kashmir of tribesmen and Pakistan nationals...". As I have said, clause A.2 has already been carried out. We have never repudiated clause A.1 nor had any doubt about it, nor about our willingness to carry it out fully.

According to clause B. 1, "When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A.2 hereof have withdrawn...the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission." Now they make a condition : they will not do it unless the disarming and disbanding of the *Azad* Kashmir forces have begun. And yet, it has been argued here time after time—at least three or four times—in the course of the address to the Council by the representative of India the other day : We will not submit to any violation; we will not submit to any breach; we will not submit to any alteration of the resolutions.

Who is trying to commit a breach ? Who is trying to introduce new factors ? Who is trying to commit a violation ? There is a clear obligation, and here is the report of the Commission. We do not know what happened between the Commission and the Government of India. The Security Council does not know. But this is their conclusion, that India was not willing to agree to withdraw, quantitatively or qualitatively, the bulk of its forces and to discharge this obligation

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unless there was large-scale disbanding and disarming of the *Azad* forces. Which part of the resolution is that? Who is trying to add to or subtract from the resolutions?

With regard to the *Azad* Kashmir forces, what was the actual situation? What is involved there? When, if at all, were they to be disbanded or disarmed? Is there anything in the Commission's report or the resolutions that clarify this or is there not? So far as the resolutions are concerned, that matter is dealt with in paragraph 4 of the resolution of 5 January 1949, paragraph 4(b) of which reads as follows:

> "(*b*) As regards the territory referred to in A, 2 of part I[I] of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities."

I shall come to that point later. So far as the resolutions are concerned, whatever is to be done is to be done by the Plebiscite Administrator in consultation with the local authorities and determined by the Commission and the Plebisciie Administrator in consultation with the local authorities. Is there anywhere anything which might cause misunderstanding in the mind of the Government of India to the effect that this was to be done simultaneously with, even in advance of, the withdrawal of the bulk of their forces? Let us look into that.

Before these resolutions were agreed upon, there were numerous discussions between the Commission and the two Governments. In the course of its discussion with the Government of India, in August 1948, the Commission pointed out that, according to the provisions of its resolutions, limited Indian forces would remain after the evacuation; and, on the other side, only the *Azad* people would remain in their present position. I shall later draw attention to the other portions of the paragraph and, therefore, in order to save time, I shall quote the whole of it here. (Summary of the meeting of representatives of the Government of India with the members of the Commission to discuss the Commission's resolution of 13 August 1948 (S/AC.12/46) Held at New Delhi on Tuesday, 17 August 1948, at 3 p.m.).

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"A second consideration which bothered the Government of India with reference to the fixing of a cease-fire line along the present lines was that those lines ran very near to the Pakistan frontier and that, in a short time, varying from one-half to two hours, the tribesmen or the Pakistan Army itself could over-run the positions held by garrisons left by the Indian Army, and that a situation might be created worse than that of last October. He contented that India needed to have certain strategic points for defence against sudden attacks. Mr. Korbel replied that the Commission had been quite aware of that danger, but that it had tried to strike a military balance. The Commission felt that if the two Government could be brought together, the danger of sudden incursion would be removed. More over, he pointed out that limited Government of India forces would remain and that, on the other side, only the *Azad* forces would remain in their present positions. Should the eventuality envisaged by the Prime Minister occur, the whole weight of the United Nations would be turned against Pakistan" [*S/1100, annex 12*].

In its discussion with the Pakistan Government the Commission took the same line and, in its letter of 19 September 1948, addressed to me, it stated : "The resolution does not contemplate the disarming or disbanding of *Azad* Kashmir forces." This appears in the first interim report of UNCIP [*S/1100*] dated 22 November 1948, paragraph 108.

Nothing could be clearer than that. It was explained to India that, after the bulk of the Indian forces was withdrawn, limited forces would still remain and that, on the other side, there would be no Pakistan forces; they would be withdrawn, and there would be only the *Azad* Kashmir forces remaining. Explaining the same provision to the Government of Pakistan, it was stated that the resolution did not contemplate the disarmament or disbanding of *Azad* Kashmir forces.

Again, in the discussions with the Prime Minister of India in December 1948, the Prime Minister of India referred to the *Azad* Kashmir forces, and he said that the *Azad* Kashmir

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forces ran into tens of thousands. This is seen from the second interim report of UNCIP [*S/1196*], dated 10 January 1949, annex 4.

Then, Sir Girja S. Bajpai, who was then Secretary-General of the Government of India, wrote a letter dated 18 February 1949 to the Commission—it will be remembered that this was after the resolution of 5 January 1949, which does provide for final disposal on both sides, had been accepted. This is his own interpretation and that of the Government of India :

> "The disarming of *Azad* forces is really a matter of chronology. First, there must be a cease-fire and, after that, a truce, as envisaged in parts I and II of the Commission's resolution of 13 August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in the occupation of *Azad* Kashmir forces. So far as non-Muslims are concerned, such a movement will *not* take place until large-scale disarming of these forces has been carried out..."

We tried to make this clear to the Commission through Dr. Lozano in the course of our discussions last September, and I emphasized this point in our recent meetings. So again they knew that the 13 August resolution did not provide for the disarming of *Azad* Kashmir forces. They asked for a large-scale disarming and they put down the chronology themselves. It is quite clear that they understood the two resolutions quite correctly.

On 14 March 1949, the Commission wrote a letter to the Government of India, in the course of which it observed :

> "In the course of the conversations last August, the Commission explained to the Government of Pakistan, that, in its view, a 'military balance' would exist in the State of Jammu and Kashmir during the truce period in the sense and to the extent that the resolution of 13 August did not call for the disarming or disbanding of the *Azad*

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Kashmir forces, which the Commission understood to number approximately thirty-five battalions . . ." (Third interim report of UNCIP, 9 December 1949).

Is there a doubt with regard to what the position was as to the *Azad* Kashmir forces? And then the Commission had to report finally that India was not willing to carry out its obligation unless something that was not provided in the resolution was done, something against which the Commission had given assurances to the Pakistan Government, assurances which it had repeated to the Government of India. Who is trying to evade his obligations? Where is the evasion? On which side is the misrepresentation? Who is seeking to get out of the obligations undertaken under the resolution?

It is now quite obvious that the position taken is that—and I believe those are the words used in the submission of the representative of India at the last meeting—we cannot permit any *Azad* Kashmir forces as such to remain. What should remain is only a civil armed force on the other side. But here is a clear undertaking to withdraw the bulk of the Indian forces with *Azad* forces intact, and then, when the plebiscite stage arrives, the final disposal of these forces is to be carried out by large-scale disbanding and disarming. There is no question of the *Azad* Kashmir forces being done away with altogether.

It also stands to reason that the obligation under the cease-fire agreement is that, till the question can be finally settled, neither side is to violate the line at all in any sense. India demands that it should have substantial military forces on its side of the cease-fire line, but no military forces at all as such on the other side.

And yet, even anticipating a little bit what should come later under paragraph 8 of Dr. Graham's proposals, the two sides have agreed "that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above."

Would there not be a serious threat to the cease-fire line if, on the one side, there was a military force and, on the

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other side, there was nothing of that kind ? How is that situation going to be met ? What is the solution offered by India ?

It is obvious that a certain number of forces are to remain on the *Azad* Kashmir side. We are not saying that Pakistan forces shall remain. That I have made quite clear. They shall withdraw. But a certain number of forces must remain. They must be adequate for the maintenance of law and order in that territory and for the maintenance of the cease-fire line.

Now, the Commission came to the conclusion that India was not willing to carry out its obligation under the resolutions because it put forward questions upon which obviously the Commission did not want to pronounce itself. The Commission had brought about this agreement on these resolutions and I should have thought that it was eminently the one which should pronounce itself upon them. But naturally, it may have felt some reluctance. This being so, it suggested the following: Here is an agreement between the parties which is enshrined in these two resolutions. Part I of the first resolution has been implemented. A difficulty has arisen with regard to settling the truce agreement. Let us call it a difficulty of interpretation, though, with all respect, I cannot see any difficulty in this regard. All the parties have already agreed that Admiral Chester W. Nimitz shall be the Plebiscite Administrator; that is to say, he shall be the person who, under paragraph 4 of the 5 January 1949 resolution, will have the power of final disposal of the forces on both sides. Therefore, the Commission suggested that the parties should agree to accept his arbitration on what the resolution of 13 August 1948 meant and required. This proposal by the Commission was reinforced by a very earnest appeal from President Truman and Prime Minister Attlee.

Pakistan accepted, India said No; they would not accept arbitration. They enter into an agreement and there is a difference as to the interpretation, let us say, of some provisions of that agreement. They do not accept what the Commission says. How is the difference to be resolved ? The Commission says, "Accept the arbitration of the man who, in any case, has to make the final disposal." We say

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Yes; India says No: Well, then, how is this difference to be resolved ?

The matter came back to the Security Council. The Council requested its then President, General McNaughton of Canada, to get in touch with the parties and to try to bring about a settlement. He worked hard morning and night. He gave up his Christmas holiday and produced a set of proposals, The parties were asked whether they were willing to accept them. Pakistan said Yes; India said No. Apparently the ground on which India was not willing to accept those proposals was this: General McNaughton had tried to meet India's demand with regard to the disbanding and disarming of *Azad* Kashmir forces in the very first stage of the demilitarization, but he said that could only be done under paragraph 4(*b*) of the resolution of 5 January 1949. That necessarily involves the implementation of paragraph 4(*a*) at the same time, India objected to that. In his proposals relating to the implementation of paragraph 4(*a*) of the resolution of 5 January 1949, General McNaughton had also included the State armed forces. As India believed that was in contravention of the resolution, it would not accept his proposals.

Let me invite the Security Council's attention to the language of paragraph 4(*a*) to see if this was in contravention of the resolution :

> "After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite."

Whatever the reason, India rejected the proposal. Here is the difficult situation which has arisen. India insists that something that is provided for under paragraph 4(*b*) of the 5

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January 1949 resolution must be carried out in the very first part of the demilitarization. India asks Pakistan whether it is prepared to go forward on that basis. When its demand is met, India says that is very good. But India's demand will also involve the implementation of paragraph 4(*a*) which deals with the other side. India then begins to object and states that we are going against the resolutions.

The Pakistan Government has been prepared at all times —it is prepared today—to take either of two courses that may be agreeable to India. One is to adhere to the strict arrangement visualized in the resolutions; that is to say, first the implementation of the resolution of 13 August 1948 and then the implementation of the resolution of 5 January 1949, if that is agreeable to India.

If, on further consideration, the Government of India has come to the view that it would be better to take the two together so that the large-scale disbanding and disarming of the *Azad* Kashmir forces could also be done at the same time, Pakistan is equally willing to proceed on that basis. Let us take part II of the resolution of 13 August 1948 and as much of paragraphs 4(*a*) and 4(*b*) of the resolution of 5 January 1949 as is needed for this purpose and go ahead with regard to the two together.

Then, what is left ? The final disposition can be made by the Plebiscite Administrator. Put it either way, we do not insist that the resolution of 13 August 1948 must be completely implemented before we start on the resolution of 5 January 1949. Our object is not so much to comply with the strict letter of the resolutions as to go forward on the basis of the agreement that exists.

General McNaughton's proposals were rejected. The Commission's suggestions were rejected. The Commission's proposals to resort to arbitration were rejected. Then the matter came back again to the Security Council. The Council appointed Sir Owen Dixon of the High Court of Australia as United Nations Representative to go out and, within a certain period, to bring about a settlement with regard to the demili-

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tarization of the State. This is what he reported on the demilitarization. I quote from paragraph 52 of his report [*S/1791 and Add. 1*] :

> "In the end, I became convinced that India's agreement would never be obtained to demilitarization in any such form, or to the provisions governing the period of the plebiscite of any such character as would, in my opinion permit of the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled."

So he came to that conclusion regarding demilitarization. That was rejection number four.

The next stage was that the matter was raised among some of the Prime Ministers of the Commonwealth who had gathered together in London in January of 1951 to consult with respect to certain matters common to the Commonwealth.

Some of these Prime Ministers, being very worried over the position in Kashmir and seeking very anxiously and earnestly to bring about some settlement, or to move the matter forward, brought the two Prime Ministers together, heard their points of view on demilitarization, and then suggested that Commonwealth troops might hold the cease-fire line and be available for the purpose of assisting the Plebiscite Administrator to carry out his duties. This suggestion was accepted by Pakistan, but it was rejected by India.

As a matter of fact, Australia and New Zealand had gone so far as to say that they would supply the troops and that they would bear the cost of the troops to be supplied. After receiving this reply from the Prime Minister of India, they made another effort and they suggested that Pakistan and Indian troops together, under a feasible arrangement, might be available to the Plebiscite Administrator to assist him in the discharge of his duties. Pakistan accepted it and India rejected it. That makes six rejections.

They then considered the matter further and they came

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up with a third proposal that local troops might be raised from the State of Jammu and Kashmir, from both sides, for that purpose. Pakistan accepted it; India rejected it. That made seven rejections.

We were evading our obligation all the time. India, according to its representative, was ready all the time to go forward. The matter came to the Security Council after Sir Owen Dixon's report, and the representative of a great country sitting now at this table. Ambassador Muniz, proposed to the representative of India and to the representative of Pakistan that on these matters on which differences now existed—and on these matters only, and I am emphasizing that for a purpose which I shall mention presently—the parties might accept arbitration. We were ready and India rejected it. That made eight rejections.

Then in the resolution [*S/2017/Rev.1*] adopted on 30 March 1951 [*539th meeting*], it is provided that if the United Nations representative then to be appointed—and Dr. Graham was later appointed in pursuance of that resolution—failed to bring about agreement on demilitarization, he would report the points of difference again—that is, I emphasize, the points of difference with regard to demilitarization—to the Security Council and the parties were invited to have those points determined by arbitration by an arbitrator, or by a panel of arbitrators to be appointed by it in consultation with the parties, by the President of the International Court of Justice. We accepted that resolution and India rejected it.

Again I ask, What is to happen? Here is an agreement contained in these two resolutions accepted by both parties. Both parties still adhere to it. Differences have arisen with regard to the implementation of a portion. How are those differences to be resolved? The Commission, which was the author, made suggestions and they were not accepted. The Security Council, under whose authority the Commission went out, made various suggestions or appointed various people to try to settle these differences. Whatever proposals have been put forward, Pakistan has accepted, but India has rejected them.

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India has particularly objected to arbitration. It has been said repeatedly: we cannot commit the fate of four million people to arbitration. Nobody has at any time suggested that the fate of four million people be committed to arbitration. Whether it would be right or wrong to do so, I am not for the moment expressing an opinion. But nobody has ever suggested it. To say that you cannot do what nobody has asked you to do constitutes an evasion. What has been suggested is the settlement of the differences that have arisen with regard to the interpretation of the agreement existing between the parties. In other words, what is it that the parties agreed to in this respect? The determination of that alone, it is suggested, should go to arbitration. India says No. It is sometimes said that, somehow, it would be a reflection upon the sovereignty of India if it accepted arbitration on any such question.

Article 51 of the Indian Constitution says the following:

"The State shall endeavour to (*a*) promote international peace and security; (*b*) maintain just and honourable relations between nations; (*c*) foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and (*d*) encourage settlement of international disputes by arbitration."

It is an obligation laid upon the Government of India, and accepted by the present Government of India in as much as they were the people under whose auspices this Constitution was settled, to encourage settlement of international disputes by arbitration. If they are to encourage settlement of international disputes by arbitration, would they not be asking those involved in the dispute—the dispute in which they might seek to encourage international arbitration—that they should surrender their sovereignty equally?

The truth of the matter is —and one has to say it with sorrow—that the declarations of India are, when they are declarations of policy or when they are advice tendered to other States, most unexceptionable. But India has so far, in its own disputes, failed to illustrate how those declarations are to be applied in practice.

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I have before me a very valuable book called *The Discovery of India* by the present Prime Minister of India. Dealing with the question of the Muslim demand for partition of the sub-continent, and the opposition of the Indian National Congress to it, he says the following, and I shall quote from pages 387 and 388 of his book :

> "The Congress went further and declared that if there was any disagreement between the majority and a religious minority, it should not be decided by a majority vote"—that is to say, in the new Indian Parliament to be elected under the Constitution—"but should be referred to an impartial judical tribunal, or even an international tribunal, whose decision should be final."

In other words, their position was that if any such question arose in the working out of the daily relations of the two communities or nations inside India (if India had remained united) the party which has the honour of having the Prime Minister of India as its leader—and he is both a great statesman and a great leader—would be willing to have such questions referred to in impartial tribunal or even an international tribunal whose decision should be final. Not only that, but when the question of Indonesia was before the Security Council, the representative of India, making his submission to the Security Council on 7 August 1947, at the 178th meeting, said the following :

> "In the course of this statement of the facts of the case I have indicated that there are many points which will have to be joined as between the two parties. Unfortunately, in the course of the debate, certain members have expressed opinions, probably unintentionally, which may have aroused suspicion of lack of confidence in the minds of the people of Indonesia. However, I shall not approach the question from that point of view. I shall only suggest that it would be in the fitness of things for the Security Council to follow up the decision which it

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took at its 173rd meeting, by the establishment of an international arbitration commission to settle the dispute."

Their Constitution lays that down as an obligation upon them. According to the Prime Minister of India that would have been quite a fair means of settling disputes between the minorities and the majority in India itself, had the Constitution taken a different course. The Indian representative, sitting here before the Security Council in a dispute between two other States, proposes the setting up of an international arbitration commission. When the suggestion is made by the Commission, then by a distinguished member of the Security Council, and later on in a resolution of the Security Council, on this narrow question of the meaning of the obligation undertaken by the parties in respect of demiliterization in these resolutions, what did they agree to do when arbitration was suggested ? India said No. We are charged, and the Security Council is charged, with evasion ! That resolution being rejected—paragraph 6 being rejected in any case—that made nine rejections.

Dr. Graham was appointed and he went out there. General Jacob Devers, who was his military advisor, formulated a plan of demilitarization. I need not go into the details of it, but we accepted it and India rejected it, and that was the tenth rejection.

Then Dr. Graham put forward his proposals, and on demilitarizion he put forward this principle : that the forces on both sides should be reduced to the lowest possible number in proportion to the numbers that obtained on the cease-fire day. We accepted it; India rejected it. That made eleven rejections.

He then put forward his proposals of 16 July 1952, and he eventually asked for a meeting at the ministers level in Geneva, on the basis of those proposals. The invitation was accepted. Both sides sent ministers, which could only mean that the basis proposed by Dr. Graham was accepted. The very first meeting was purely formal, and when at that meeting the Indian minister began to explain his point of view, Dr.

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Dr. Graham discovered at a fairly early stage that India was not willing to proceed on the basis of the proposals of 16 July. Pakistan was willing to proceed on that basis. That made twelve rejections.

Thereafter Dr. Graham revised his proposals, and those revised proposals are known as the proposals of 2 September 1952. Pakistan accepted them : India rejected them. That made thirteen rejections. I am merely enumerating all the acceptances and rejections.

The proposals of 2 September are before the Security Council. We are willing to proceed on the basis of those proposals without any modification or amendment. Is India willing ? Then we have the present draft resolution [*S/2839*]. I shall explain in a moment our attitude on that. India says that they reject it. That is the fourteenth rejection.

Before I go on to explain our attitude to the draft resolution, which I shall do in the course of a few minutes, I should like to deal with one or two miscellaneous matters which were raised by the representative of India and which bear on this question of demilitarization.

In the attempt to justify the stand of the Government of India in respect of this question, it was urged that one of the factors in the situation which made it necessary for India to maintain large forces in the portions of the State of Kashmir occupied by India was the fact that Pakistan had cantonments near the Kashmir border. But those cantonments are there as the result of a pre-partition geographical distribution. Pakistan has built no new cantonments. The ones in question were there before the sub-continent was partitioned, before any of these disputes arose.

There is the consideration, however. If by the statement to which I have referred it is meant that Pakistan would be in a favourable position to embark upon an invasion of the State and commit aggression, I would say this : if the course of this long-drawn-out dispute proves anything, it proves that Pakistan is anxious to proceed to the holding of a plebiscite; India is not. In that case, could anybody imagine that, as soon as India had withdrawn the bulk of its forces, or all of its forces,

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from the portion of Kashmir occupied by India, Pakistan would march its troops into Kashmir, thus, first, discarding any possibility of a plebiscite being held, and, secondly, inviting India to attack Pakistan from the rear and occupy it ? Is that what India fears ?

This consideration, also, is academic. The situation was fully considered. The very first extract from the Commission's proceedings which I read out related to this. It will be remembered that I said that, in order to save time, I would read out the whole of the report of the Commission's proceedings and merely refer to relevant parts afterwards. This very matter was put by the Prime Minister of India to the Commission, and the Commission said : We have taken it into account. There will be a limited number of Indian forces still in Kashmir, and, on the other side, during the truce period there will be only the *Azad* Kashmir forces. Later on, of course, the Plebiscite Administrator was to make the final disposal on both sides. That, too, was taken into account. It is not a new fact.

But, again, let us see what has happened during this time when all these efforts have been made to bring about the truce agreement, which has not materialized.

In the summer of 1950, India moved a very large portion of its troops on to the Pakistan borders in West Punjab. Subsequently some of these troops went back. In the summer of 1951, India moved the whole of its armour and a much larger number of troops right up to within a few miles of our borders. Those troops are there now. Pakistan was compelled, out of considerations of defence, to move forward its own troops to the border also. These troops have gone back to their peacetime stations. Not only have the greater part of the Indian troops not gone back to their peacetime stations, but the present stations are now becoming their permanent stations; locations are being permanently formed for the stationing of these troops.

The situation, therefore, is this: though Pakistan has cantonments along the Kashmir border, India now has its troops massed in the rear of Pakistan. What has India to fear from the fact that the cantonments are near the Kashmir

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border? India, on its side, has taken steps threatening Pakistan's security. India's troops are massed on our borders.

But is this the main consideration? Law and order are to be maintained on both sides of the cease-fire line. The cease-fire line itself is to be maintained. If the cease-fire line is maintained, if the cease-fire agreement is kept by both sides, and if law and order are maintained, here is no need for troops for any other purpose within the State territory. Those are the only considerations that apply. Therefore, troops have to be reduced. That is common ground. It has been said repeatedly at this table. There cannot be a free and impartial plebiscite with large bodies of troops of either side stationed in the area in which the plebiscite is to be held.

This is a plain, straightforward case. It has been bedevilled by evasions and misrepresentations. The Security Council should now be in a position to determine from where the evasions and misrepresentations have come.

Then, again, it is said: paragraph 8 of Mr. Graham's proposals has been pressed into service in order to justify certain proposals that have been submitted with regard to *Azad* Kashmir forces and the question how many of them should remain, whereas that proposal has nothing to do with this aspect of the case. I have already read out proposal 8. It has been agreed to by both parties. It states:

> "Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragroph 6 above."

In other words, there must be military forces on both sides. If there is military force on one side and not/on the other, is that not a direct threat to the cease-fire agreement and the cease-fire line?

The other day, it was said that the cease-fire agreement was between the Governments of Pakistan and India, and the *Azad* Kashmir people had nothing to do with it. I do not know exactly what it was sought to establish by this conten-

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tion. Did this mean that the Pakistan Government might be permitted to keep troops along the cease-fire line, but that the *Azad* Kashmir people would not be ? If that is desired, and if it is suggested as a modification of the proposals in the resolution of 13 August 1948, we shall accept it. We are not, however, asking for it because it is not in accordance with the resolution. The resolution contemplates—and the explanations and clarifications given establish—that there will be a military balance in both stages of demilitarization: limited Indian forces and State armed forces on one side, and *Azad* Kashmir forces on the other, in the first stage; then there would be final disposal of both in the second stage. It has been quite clear from the very beginning that is the desired balance, for two purposes: maintenance of law and order on both sides and maintenance of the cease-fire line.

There is one other matter to which I must refer before I come to the draft resolution. In her submission the other day [*608th meeting*], the representative of India attempted to show how peaceful India was, how peaceful its intentions were, how peaceful its efforts were to bring about a solution of the dispute by peaceful means and to exclude every possibility of a military conflict. In this connexion, she observed :

> "We have also repeatedly declared that on no account would we initiate military operations and that we would continue to seek a peaceful settlement. Pakistan, though invited by us to do so, has refused to make this decleration".

I submit that was a very unfair statement to make. It caused me a good deal of sorrow that a statement which does not directly bear upon the questions under discussion should have been made in that fashion, in an attempt to create the impression that India had said, "Let us declare that we shall settle these issues peacefully", and Pakistan had said, "No, we shall not declare that".

In this connexion, all that I shall do is to invite attention to the letter of the Prime Minister of Pakistan dated 21

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November 1950 to the Prime Minister of India, on this subject. I shall read out certain paragraphs, not the whole of it. It will make the whole subject-matter clear.

> "For, almost a year we have discussed ways of resolving our disputes by peaceful means. You have proposed that our Governments declare jointly that they will not resort to war. I have endeavoured to persuade you that such a declaration by itself is not enough and that the way to resolve our disputes without resort to force is to adopt the procedures for resolving them peacefully. I have proposed specific, concrete procedures that provide for automatic arbitration on all issues where negotiation fails. I suggested a substantive no-war declaration to this effect. This you have not accepted.
>
> "It seems to me that if we are to move forward we must face squarely what it is that has prevented India from accepting my no-war declaration.
>
> "Reviewing our correspondence it becomes quite clear that the crux of the difficulty is the reluctance of your Government to substitute on any issue impartial arbitration for threatened and actual use of force. India has been unwilling to accept the decision of an impartial arbiter on any issue now outstanding. Pakistan is and has been willing to accept the decision of an impartial arbiter on every issue outstanding between us.
>
> "By joining the United Nations our countries have already renounced the use or threatened use of non-pacific means of every kind. We have subscribed to the Statute of the International Court of Justice. We have agreed in the Charter of the United Nations that our legal disputes as a rule should be referred by us to that Court. A bare announcement that we will not declare war unless attacked adds nothing to these commitments. If anything, it detracts from them. Against the back-

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ground of the past two and one-half years, an announcement that fails to substitute arbitration for compulsion, whether war is declared or not, will fail to carry conviction that there will be no resort to force.

"During the past two years, our joint undertaking to accept the decision of a free and impartial plebiscite of the inhabitants of Kashmir has remained a hollow declaration, owing to the refusal of your Government to implement this agreement and the resolutions of the United Nations Commission and the Security Council. Your Government have rejected every recommendation that their armed forces be withdrawn, as Pakistan has agreed that its armed forces be withdrawn, in order that the plebiscite may take place without undue influence or compulsion by either side.

"When it was proposed to each of our Governments that we accept an impartial arbiter to settle the difference over interpretation of the agreement brought about by the United Nations, Pakistan agreed; India did not. You say that the matter is not justiciable. Certainly it would seem to me that the interpretation of an international agreement is eminently justiciable. But, even if the matter were not justiciable, this would only mean that the impartial arbiter should be other than a court of law. The fact that a dispute is not justiciable is not a valid reason for refusing to accept the impartial decision of experienced and understanding statesmen. Your willingness to accept arbitration of the interpretation of our Kashmir agreement will demonstrate more than any mere declaration the determination of your Government to resolve this issue by peaceful means.

"At the time of partition, Indian representatives joined in declaring that there was no question of varying the shares of the two new countries in our common waters required for irrigotion. Since then, India sought to compel acceptance of greatly increased supplies for India

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at the expense of irrigation vital to Pakistan. Taking advantage of its position as the upstream riparian, India arbitrarily cut of during the critical sowing season in the spring of 1948 the supplies into every Pakistan canal that crossed the boundary. Contrary to the information you have received and no doubt contrary to your personal wishes and orders, the flows were not resumed until after your Government sought to exact certain conditions inimical to Pakistan. Not until certain of these conditions were met was the flow restored in the Central Bari Doab canals and it has not yet been resorted in the Bahawalpur State distributory. Even your recent assurance that the partition supplies will not again be cut off has since been qualified by conditions which your Government know Pakistan cannot accept. Our repeated requests to submit the canal waters dispute to the International Court of Justice have not been accepted".

Further on in this letter, we read :

"Without qualifying in any way what I have just said, I must in full frankness confess to you that the more we have studied your counter-proposal the more clearly does it appear to us that the International Court would best serve your proper purposes as well as ours. It has the great advantage of independence, impartiality and unquestioned competence, without being in any sense a foreign court. It is our Court. India and Pakistan by accepting the Statute of the Court and agreeing to its jurisdiction, far from impairing their sovereignty, exercised it in aligning themselves with those nations that have freely chosen to live under the rule of law. By submitting our water dispute to that Court and abiding by its decision, we again demonstrate that the highest act of sovereignty is to act in conformity with international law. The International Court stands for the very same high principles of international conduct with which you have always identified yourself. There are so many practical considerations weighing in favour of the interna-

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tional Court. The Court is already functioning successfully. No detailed agreement need be worked out to fix its composition, its jurisdiction, its rules of procedure. As you and your advisers consider the actual terms of the draft agreement governing the tribunal you propose, I believe you will come to appreciate the full merit of the International Court. I therefore again request that, rather than postpone settlement while seeking to create a new tribunal as good as the International Court, we accept now the jurisdiction of that Court to settle the canal waters dispute."

Finally, the Prime Minister said :

"My Government are prepared to reaffirm with yours the solemn engagements undertaken when we became Members of the United Nations. We are willing to do more, but we are not willing to do less. The path of constructive statesmanship is for us to eschew declarations without deeds and to avoid assuming to decide by unilateral act or by veto the merits of our own contentions. The solution of our problems will come, I am earnestly convinced, when each side accepts adjudication of all issues that are justiciable and arbitration of all other issues. My Government are prepared to do this now on every issue. I most earnestly hope that your Government will see fit to do the same."

Was this a refusal to say that we shall settle our disputes through peaceful means and shall not go to war ?

The whole trouble was this : India is in possession of the greater part of Kashmir. It refuses to move towards a plebiscite—that is to say, towards a decision. India, as the upper riparian owner, has the power which it has exercised once, to cut off our waters and to convert the whole of Pakistan into a desert. It is in that sense in possession of those waters. In fact, it claims ownership of every drop of those waters. And it says : "Let us say that we shall never fight with each other

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over anything." Pakistan's reply is: "Let us settle the procedure through which our disputes can be settled and we can reach a final solution. Having done that, let us proclaim to our people 'This is the way we are going to settle the matter—through peaceful means. We are not going to war with each other'."

That is all that happened. Again, the Security Council can judge whether it was a fair presentation of that aspect of the matter to say: "We have invited the Government of Pakistan to say that we shall never fight over these matters, but the Government of Pakistan refuses to say it."

I now come to the draft resolution [*S/2839*]. So far as the numbers suggested in the draft resolution are concerned—that is to say, 12,000 to 18,000 and 3,000 to 6,000—I would beg to submit that, having regard to the agreements that existed, their background, the needs on both sides, the numbers are not fair to the Pakistan side of the cease-fire line.

Not to go too much into detail at this late stage, consider paragraph 8 of the proposals of Dr. Graham, which I have already read out twice: that demilitarization shall take place in such a manner that it shall cause no fears or danger to the cease-fire line on either side. Would not 18,000 on one side and 6,000 on the other, or 12,000 on one side and 3,000 on the other, set up such an imbalance—whereas the Commission was seeking to establish a military balance—that it would cause apprehension on one side that the cease-fire might not be adhered to?

The position is, a I have been at pains to demonstrate, that India goes on announcing its peaceful intentions but rejects everything that is proposed so that these intentions might be translated into action, and refuses to make a move. We have on every occasion given a practical demonstration of our peaceful intentions by accepting proposal after proposal, although each proposal sought to push us in some respect or another, so that a peaceful settlement might eventually be reached.

We are again prepared, in spite of these considerations,

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to go forward on the basis of this resolution also—in spite, I say, of the considerations that I have suggested. These will be taken into account.

But I would submit that there are two matters with regard to which this resolution—with all respect—does not appear to us to aim at the making of progress. One is that it contemplates that the parties seek out each other and go into conference with each other; the other is that the parties, at the end of their conversations with each other, should report the result to the Security Council. With all respect, as I have said, we consider that this is not a practical way of approaching the problem.

The United Nations Representative is there, true; the resolution says he will be available. We owe it to him, we owe it to the powers that your resolutions have vested in him, we owe it to the parties, we owe it to the dispute, we owe it to the people of Kashmir, irrespective of what the situation between India and Pakistan is, that the representative of the Security Council should retain the initiative in this matter, that the conversations should take place under his auspices and that he should report to the Security Council. As an impartial representative of the United Nations, knowing the whole background of the dispute—he has already made four reports—he would know to what his report should confine itself, what it should contain and what its presentation should be.

I very much fear that, if the parties are left to themselves the matter may not move at all; and, if it does move—let us say that conversations take place but that no arrangement is reached—the report that each party will make to the Security Council will probably contain the greater part of all these volumes from which I have put extracts before you. It will not be of much use to the Security Council. The obligation to report should also be placed where it properly belongs: on the United Nations Representative.

I shall now conclude with one concrete offer. May I, in that connexion, draw the attention of the Security Council once more to part II of the resolution of 13 August 1948 and refresh the memory of the members of the Council. On the

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one side, under that resolution, the obligation is that the Pakistan troops should begin to withdraw, that we should agree that they should be withdrawn—I leave out the tribesmen and Pakistan nationals, who have already gone out—and, on the other side, when our troops begin to withdraw, the bulk of the Indian troops should be withdrawn.

Paragraph 2 of section B of part II of the resolution of 13 August 1948 states :

> "Pending the acceptance of the conditions for a final settlement···the Indian Government will maintain within the lines existing at the moment of the cease-fire" the minimum strength of its forces "which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order···"

That is to be withdrawn; this is to be left.

I now draw the attention of the Security Council to what the representative of India said ot our last meeting :

> "In view of the considerations which I have mentioned, and after careful examination and assessment by the experts, the Government of India had come to the conclusion that a minimum force of 28,000 was required to carry out its responsibilities. However, on complete disbandment and disarmament of the '*Azad* Kashmir forces', and as a further contribution towards a settlement, the Government of India is prepared to effect a further reduction of 7,000 to a figure of 21,000 which is the absolute and irreducible minimum. I should like to emphasize that this figure, which includes the former Sate armed forces, represents less than one-sixth of the Indian forces at the time of the cease-fire. It should further be emphasized that this force will have no supporting arms such as armour or artillery. In addition to its other duties, this small force would also be responsible for policing the cease-fire line on the other side of which is the aggressor. This line is several hundred miles

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long and runs through difficult and mountainous terrain. This force has also to guard the extensive borders of the State of Jammu and Kashmir. A glance at the map will be sufficient to indicate the magnitude of the task with which the proposed force will be entrusted".

Leave aside for the moment the disarming and disbanding of the *Azad* Kashmir forces, which is part of the 5 January 1949 resolution, and the offer that, when that is done, the Indian forces will be further reduced by 7,000. That is a matter which has been committed to the Plebiscite Administrator. The Commission—let us say the United Nations Representative, who now has the powers of the Commission—and the Plebiscite Administrator, in consultation with the Government of India, have to see to the final disposal of the forces on that side and, in consultation with the local authorities, the final disposal on this side. We should leave that aside. But, so far as the withdrawal of the bulk is concerned and the limited forces that are to remain, the representative of India said that her Government's military advisers think that a minimum force of 28,000 is required to carry out its responsibilities.

I purpose—and I am willing that on this basis, if it is agreeable to India, we should proceed—that the resolution of 13 August 1948 be implemented immediately on this basis :

India shall retain on the side of Kashmir occupied by it 28,000 men, all told, including State armed forces, without armour or artillery. On our side, we will carry out the full obligations undertaken by us under that resolution: The tribesmen and Pakistan volunteers are already out, and the Pakistan army will move out on that basis.

If it is agreeable to India, let us agree on that, and then let the resolution of 5 January 1949 take care of the rest—provided that then the Plebiscite Administrator takes over and carries out all the duties and responsibilities which the resolution of 5 January 1949 entrusts to him.

If the representative of India will signify her assent to this, now or later, we can proceed, under the auspices of the United Nations Representative, on this basis immediately.

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146. *Text of the speech made by Mrs. Pandit (India) in the Security Council meeting No. 610 held on 23 December 1952.*

I do not wish to tax the patience of the Security Council. I shall therefore endeavour to be brief, and confine myself to dealing with some of the more basic points raised by the representative of Pakistan and to restating our position where necessary.

The representative of Pakistan has sought to persuade the Council that the invasion of the territory of Jammu and Kashmir by tribesmen and Pakistan nationals, across Pakistan territory, which was engineerd, aided and abetted by Pakistan, was a spontaneous act of revolt against the Maharajah's Government by those who had a right to feel concern. It was even suggested that the revolt was by way of protest against the Maharajah's decision to accede to India.

The Council will recall that the instrument of accession was executed by the Maharajah on 26 October 1947, and accepted by the Government of India on 27 October 1947. The invasion, however, had started on 22 October 1947.

The question of the validity of the accession of the State of Jammu and Kashmir to India has been raised again. I should like to remind the Council that neither the Council nor the United Nations Commission for India and Pakistan nor any other authority set up by the Council has ever disputed the validity of the accession. An Indian State, as Kashmir was at that time, was deemed to have acceeded to the Dominion if the Governor-General had signified his acceptance of an instrument of accession executed by the ruler : that was laid down in the Government of India Act of 1935 (section 6) enacted by the British Parliament.

The ruler was the legal head of the State. The legal requisites of accession were fully completed and the Maharajah of Jammu and Kashmir signed the instrument of accession on 26 October 1947, and the Governor-General, Lord Mountbatten of Burma, accepted it. But the Governor-General, on behalf of the Government of India, expressed the wish,

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unilaterally, that as soon as law and order have been restored in Kashmir, and her soil cleared of the invader, the question of the State's accession should be settled by a reference to the people.

The soil of Kashmir has unfortunately not yet been cleared of the invader, and subversive forces and elements continue to function in the territory occupied by them. This is the real reason why reference to the people of Kashmir is being delayed. The representative of Pakistan has again asked how it was possible to fly troops to Srinagar on 27 October 1947, the day on which the Governor-General accepted the accession.

Regarding this point the United Nations Commission for India and Pakistan, in its first interim report, dated 22 November 1948, states as follows [*S/1100, para 121 (IV)*]:

> "The accession of Jammu and Kashmir, the legality of which is disputed by Pakistan, was accepted by India on 27 October 1947. Immediatley thereafter"—and I emphasize this word "thereafter—"the Indian Army advanced into the State with the purpose of expelling the tribesmen and restoring law and order."

In the course of his letter of acceptance to the Maharajah dated 27 October 1947, the Governor-General observed :

> "Meanwhile, in response to Your Highness's appeal for military aid, action has been taken today to send troops of the Indian Army to Kashmir to help your own forces to defend your territory and to protect the lives, property and honour of your people."

I shall quote an extract from a diary of the events of the time, which appears in Campbell-Johnson's *Mission with Mountbatten* :

> "As for the military outlook, V.P."—this refers to Mr. V.P. Menon, Secretary of the Ministry of States at that

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time—"advised that the troops left in Srinagar had no prospect whatever of holding the invaders, for they consisted merely of one squadron of cavalry. In the light of these depressing data, the Cabinet decided that the Maharajah's accession should be accepted and that a battalion of infantry should be flown in at dawn the next day."

Another quotation from the same diary will help correctly to appraise the policy of the Government of India :

"It should be noted that, when Mountbatten visited Kashmir in June, he did everything possible to impress upon the Maharajah the urgent necessity of acceding to one or other of the successor Dominions before 15 August and of basing his decision upon some expression of the popular will.

"Moreover, Mountbatten was empowered to advise him, on the authority of Patel"—that is, the late Deputy Prime Minister of India—"that if his decision was to throw in his lot with Pakistan and join their Constituent Assembly in advance of the transfer of power, it would not be regarded as an unfriendly act by India."

Campbell-Johnson further says :

"Three days before the transfer of power and the accession time limit, the Kashmir Government announced its intention of signing stand-still agreements with both India and Pakistan. Subsequently, the Indian Government's policy has been to refrain from inducing Kashmir to accede. Indeed, the States Ministry, under Patel's direction, went out of its way to take no action which could be interpreted as forcing Kashmir's hand and to give assurances that accession to Pakistan would not be taken amiss by India."

Here we have factual testimony which rebuffs the fiction which has often been presented to the Council that the acces-

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sion of the State to India was brought about by some prearranged plan or manoeuvre, to which, presumably Lord Mountbatten was a party.

The following extract from a broadcast made at that time by the Prime Minister of India affords proof in the same direction. He said :

> "Had we desired a pretext either for Kashmir's accession or for sending out troops there, we should not have waited to accomplish our purpose until half of the Valley of Kashmir and parts of Jammu Province had been given to fire and sword and Srinagar itself was in peril of capture by the raiders, with all its horrors.
>
> "We decided to send troops on the afternoon of 26 October. Srinagar was in peril, and the situation was urgent and critical. Our staff worked that day and night, and at daybreak on the 27th our troops went by air. They were small in numbers to begin with—no one at that time knew how few they were—but immediately on arrival they rushed into action to stop the invader. Their gallant Commander, a brave officer of our Army, was killed the next day."

The sequence of events during those difficult days and the motives which inspired the sending of troops into Kashmir was, in the words of Lord Mountbatten, "to protect the lives, property and honour" of the people of Kashmir, and will be evident from the above quotations.

To describe the fury inspired and directed by Pakistan which was unleashed on Kashmir as a "popular revolt" against the Maharajah's rule is a cynical distortion of facts.

I need not recall the gruesome details of the events which followed the unprovoked invasion, since they have already been described in this Council more than once. It is enough to say that raiders, who were armed and equipped with modern and automatic weapons supplied by the Pakistan Army and were transferred in Pakistan military and civil vehicles, spread

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death and destruction, sparing neither men, women nor children. The convent at Baramula was raided and nuns and other innocent inmates who were not even people of the country were murdered. I am sure that Mr. Zafrulla Khan would not suggest that the victims of the Baramula atrocities were the agents of the Maharajah, upon whom the righteous wrath of a people seeking their liberty was vented.

Mr. Zafrulla Khan mentions that disturbances in Kashmir had commenced some two months earlier than October 1947, that is, about the month of August. The Council may be reminded that, about the time of the transfer of power, vast disturbances and upheavals rocked the great Province of the Punjab and spread to the southern fringe of Jammu and Kashmir State. It has been alleged that these disturbances were really a revolt against the Maharajah's authority. Is it suggested that the upheavals which took place at the time in the Western Punjab and North-West Frontier Province and elsewhere in Pakistan were also popular revolts against the authority of the Government of Pakistan ?

The fact is that there had been a popular movement, started twenty years earlier, against autocracy in the State ; it was organized and developed by the Kashmir National Conference, the leading popular party in Kashmir, which today has in its hands the reins of government. The movement against autocracy always had the fullest support of the Indian National Congress, and in 1946 the present Prime Minister of India, who had gone to Kashmir in connexion with the popular movement, was actually arrested by the State authorities.

But that people's movement was an entirely non-violent one, and it is an undeserved insult to the people of Kashmir to seek to place the responsibility on them for the plunder, rapine and massacres which characterized the first invasion of Kashmir.

It has been argued that, that invasion of the State cannot be regarded as aggression, as it preceded by four days the State's accession to India. Does Pakistan admit, then, that it invaded and committed aggression against the territory of Kashmir because the latter had not yet acceded ? Kashmir, it

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may be remembered, had then a stand-still agreement with Pakistan. The invasion by a State of a neighbouring State is in itself an act of aggression. It becomes even more flagrantly so when that State happens to be a small and peaceful neighbour. It became aggression against India as well after the Jammu and Kashmir State's accession to India.

The Foreign Minister of Pakistan has tried again to justify the second aggression against India by Pakistan on 8 May 1948. Mr. Zafrulla Khan, who is himself a jurist, seeks to justify this aggression by telling the Council that it took place on the advice of the Commander-in-Chief of the Pakistan army, a British General. Let me quote what Sir Benegal N. Rau said to this Council in regard to this on a previous occassion [*466th meeting*] :

> "I now come to that part of the Commander-in-Chief's appraisal which recommended that regular units of the Pakistan army must, if necessary, be sent into Kashmir. I must confess that I have been gravely disturbed by this disclosure. Here is a British Commander-in-Chief of a Dominion of the Commonwealth, recommending that a military expedition should be sent, if necessary, against a sister Dominion.
>
> "I should like at this stage to ask the representative of Pakistan two questions. The first is : Before the Pakistan army was actually sent into Kashmir, was His Majesty's Government in the United Kingdom consulted or even informed ? I ask this question because I believe that the recommendation involved a serious offence against the British Foreign Enlistment Act..."
>
> "...The second question which I should like to ask him is whether, at any point of his appraisal, the Pakistan Commander-in-Chief cautioned the Pakistan Government that the step which he was recommending, however justifiable in his view, might constitute a breach of international law. I feel that, in order to protect himself, he

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would have taken this precaution, having regard to his conduct on an earlier occasion which I shall mention immediately..."

"...Whatever the answers to these questions may be, one thing is clear : that the justification pleaded by Pakistan is that the sending of troops was necessitated by considerations of self-defence. Such a plea might have passed muster in the old days, but now, fortunately, we have the United Nations and its Charter. Article 51 of the Charter reads :

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack accurs against a Member of the United Nations until the Security Council has taken the measures necessary to maintain international peace and security Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.'

"This Article imposes two limitations upon the right of self-defence : first, there must be an armed attack upon the Member that exercises the right ; and, secondly, measures taken in the exercise of the right of self-defence must be immediately reported to the Security Council. In the present instance there was no armed attack on Pakistan, and admittedly the sending of the army into Kashmir was not reported to the Security Council.

"I am not making a small legal point. I am pointing this out because, if the matter had been reported at that stage to the Security Council, we should not have been in the difficult position in which we find ourselves today.

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I feel sure that the Pakistan army would not have been allowed to go in, and the subsequent mischief to which the invasion led would have been avoided. I have contended in my original speech [*463rd meeting*] that because of this initial wrong, certain other wrongs followed, namely, the building up of the so-called *Azad* forces and the so-called *Azad* administrations. I then asked, as I still ask, that all these wrongs should be completely undone before a plebiscite can be held. Any other course would involve the recognition of an act which was not only against the plain provisions of the Charter but was also, as I see it, a crime according to British municipal law. We should be creating a dangerous precedent if we took any other view or adopted any other course.

"It is said that the dispatch of Pakistan troops was necessitated by India's mounting and offensive against the raiders. But surely this was nothing new. The Security Council knew that the Indian army had gone to Kashmir to repel the invaders, but it is curious to learn that, although Pakistan, according to its defence before this Council, was rendering no assistance whatever to the raiders, nevertheless when it found that India was on the point of expelling the raiders, Pakistan found it necessary to send its army into Kashmir in order to hold the line. But we are told that Pakistan did not do anything more, whereas we have it both from the majority [*S/1430*] and from the minority [*S/1430/Add.* 3] reports of the Commission, that Pakistan not merely held the line but extended its military control over the northern areas between August 1948 and January 1949. This was not a case of merely holding the line but of occupying as large a part of the State as Pakistan's military strength permitted."

I need hardly add anything to the above. To this day, Pakistan forces continue to occupy the territory forcibly seized by them. India does not occupy an inch of Pakistan territory, nor does it seek to do so. It relies on peaceful methods for the settlement of disputes and does not threaten war or have

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recourse to warlike acts. India has repeatedly asked Pakistan to join it in a mutual no-war declaration. Mr. Zafrulla Khan referred to this at some length the other day [*609th meeting*]. He dismissed such a declaration by asserting that it had no meaning unless agreement was first reached on methods and procedures for the settlement of pending issues. If such an agreement cannot immediately be reached, is that a reason for not declaring that force is to stand outlawed? Instead, however, of any such no-war declaration, we are faced with incessant threats of force and jihad—holy war.

Mr. Zafrulla Khan quoted his late Prime Minister's reply to our Prime Minister's invitation to him to join in a no-war declaration. I can do no better than follow Mr. Zafrulla Khan's example in this instance and quote our Prime Minister's reply :

"I should like to discuss the *raison d'etre* of our suggestion for a no-war declaration. We thought, and subsequent events have proved it, that any complicated declaration would lead to an interminable correspondence. We were anxious for an immediate step forward even though it might only be a first step. We were convinced that this would have given Indo-Pakistan problems a new orientation. Hence we suggested the simplest possible no-war declaration. It is easy to criticize that, but can anyone doubt that such a declaration coming from our respective Governments would have made a tremendous difference in the relations between India and Pakistan and would have lightened the dark and heavy atmosphere that surrounds us ?

"We are fully aware of the obligations that our two countries, in common with many others, have accepted by becoming Members of the United Nations. But you know as well as I do that, in spite of the brave and eloquent words of the Charter of the United Nations, fierce disputes and impassioned arguments are in progress at Lake Success even as I write. Member nations look at each other with fear and suspicion and the world stands on the verge of catastrophe. It is even possible that the United Nations may change its original shape and character. All this is not the fault of the Charter,

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but of fear, which envelopes the nations of the world and drives them continuously in a wrong direction.

"Suppose that the leaders of the great Powers met, or otherwise agreed, to issue a simple no-war declaration such as I have suggested to you. Would not that make a startling difference? There would be a great sigh of relief from hundreds of millions of people, and the imminent threat of war would, for the moment at least, fade away. A chance would be given to the nations to think calmly and dispassionately of their problems and possibly find a way out. And yet, that simple declaration would contain nothing new. It would only be a reiteration of a part of the Charter.

"We have had to contend also, in India and Pakistan, with this pervasive sense of fear and apprehension and the possibility of war between our two countries. This has been created by a variety of circumstances and by the persistence of certain disputes between Pakistan and India which remain unsolved. I have drawn your attention to the type of propaganda that has been going on in Pakistan and the belligerent character of certain speeches and writings in the Pakistan Press about India. The Charter of the United Nations has not helped in stopping these speeches and writings or even in improving our relations. Nearly eight months ago, you and I met, under a happy inspiration, at a moment of deep crisis for our countries. After some discussion, we arrived at certain simple conclusions. There was nothing novel about them. But they were the result of an earnest approach by both sides, and immediately there was a remarkable change in the atmosphere of both countries. There was a cooling of temper, and understanding replaced passion and prejudice. This psychological change did not solve any problem, but it went a long way to produce conditions favourable for a solution. After eight months, I think both of us can say with confidence that we did well and the results have justified our action.

"This encouraged me to think that another move by us, such as the one that I had suggested in the shape of a

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simple no-war declaration, would transform the minds of Indians and Pakistanis alike. To encumber that declaration with details of procedure and programme would be to weaken the effect, which was the main purpose of the declaration proposed by us. This does not mean, of course, that practical steps, including agreement on procedure and timing, would not be necessary for resolving specific disputes. In my previous letters to you, I have attempted to deal as fully as I could with the mode of settling individual issues outstanding between our two countries.

"You say that the crux of the difficulty in our reaching an agreement has been our reluctanee to substitute, on any issue, impartial arbitration for threatened or actual use of force. I am greatly surprised at your reference to force and must deny categorically any suggestion that at any time we have threatened resort to force to settle a dispute with Pakistan. Force has been used by Pakistan and by India against each other in Kashmir. I do not wish to repeat the sad story of Kashmir here. But you know well that we sent our troops to Kashmir under stress of grave emergency and when an invasion of Kashmir had already begun. I am convinced that we would have failed in our duty if we had not met this aggression and rescued Kashmir from it. After long denial that Pakistan forces had gone to Kashmir, this fact had to be admitted, and there they are still—with what justification, I have completely failed to understand. Even so, after the failure of Sir Owen Dixon's mission I stated unequivocally that India would not attack Pakistan unless it was attacked first. I asked you to make a similar declaration on behalf of Pakistan, but to this you did not respond. I do not claim that my declaration should convince all reasonable persons of the genuineness of our pacific intentions. As regards impartial arbitration, I have never stated that we would not resort to it on any issue. But there are some issues, for example the future of Kashmir, which cannot be settled by arbitration. If I am not mistaken, your Minister for Kashmir

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Affairs, Mr. Gurmani, has expressed the same view publicly. In international affairs all kinds of issues arise. Some lend themselves to adjudication, some to arbitration and some to settlement only by agreement among the parties. To recognize this is not to refuse arbitration on matters which lend themselves to a settlement by this method".

There is no need to read the rest of the letter, but we shall be glad to place it before the members of the Council along with other correspondence which took place between the two Prime Ministers on this occasion.

The representative of Pakistan has again raised the question of Junagadh—that seems to have become his habit—and he seeks to set it up as some kind of parallel. Although any discussion about Junagadh is entirely irrelevant. I shall deal with it briefly to show how much of it is irrelevant. Junagadh was a principality situated hundreds of miles from the land frontiers of Pakistan. Its small port of Veraval, like any other port, no doubt has access by sea to Karachi, but so also have the great Indian ports of Bombay, Madras and Calcutta. The principle of geographical contiguity, which is an essential feature of the policy of accession with respect to all former Indian States, to one or the other of the States of Pakistan and India, does not apply in the case of Junagadh. What are the facts in regard to Junagadh and its accession? Mr. Campbell-Johnson outlines the picture in his diary, *Mission with Mountbatten*, and I shall give some extracts thereform :

"Inside Junagadh are islands of territory from these States, and inside these States are islands of Junagadh territory. Her railways, ports and telegraphs are an integral part of the Indian system.

"The first move was V.P.'s visit"—that refers to V.P. Menon, Secretary, Ministry of States of the Government of India—"to the State ten days ago, which produced only limited results. He met the Dewan, who told him

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that the Nawab was indisposed, and therefore could not see him. However, the Sheikh of the small State of Mongrol, which up to the transfer of power had been under the suzerainty of Junagadh, used the occasion of V.P.'s presence in the neighbourhood to get away from his own State and voluntarily to accede to India, thus following Babariawad, which had already acceded. But the Sheikh, on his return to Mongrol, which coincided with V.P.'s visit to Delhi, found himself obliged to renounce his accession. On the 22nd, the Government of India decided that the circumstances in which the letter of renunciation was written were such as to justify them ignoring it. Junagadh followed up this bloodless victory over Mongrol by sending troops into Babariawad".

The diary continues :

"Ismay (General Lord Ismay, now Secretary-General of NATO) spoke with great cogency about Jinnah's probable tactics and strategy over Junagadh. Clearly on its face value the state is worthless to him. It is an impossible military liability. By no stretch of imagination as it his policy to incorporate isolated pockets of Moslems, for there are already some 40 million of them outside the Pakistan homeland.

"Ismay, from the conversations he had with Liaquat during his last visit to Delhi, is quite convinced that Pakistan's strategy is to use the whole Junagadh contest as a bargaining counter for Kashmir. This interpretation is borne out by a significant remark Liaquat made to Mountbatten on the same visit. 'All right', he told him, 'let India go ahead and commit an act of war, and see what happens.' The consistency of Pakirtan's case against the Kashmir accession is ill-served by the Junagadh precedent. The 'fraud and violence' of accession when it involves India and Kashmir is strict legality when Junagadh accedes to Pakistan."

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The representative of Pakistan has sought to claim merit for having accepted proposals made in and outside this Council from time to time; equally, he has tried to discredit India for inability to concur. The enumeration of the acceptances and rejections is incomplete and misleading. Pakistan accepted and India rejected the Council's resolution [*S/726*] of 21 April 1948 [*26th meeting*]. But Pakistan followed up the "acceptance" by invading Kashmir thereby augmenting its initial act of aggression. India's "rejection" was followed by continued co-operation and negotiation with the United Nations Commission for India and Pakistan despite the grave provocation offered by Pakistan's acts. India and Pakistan have both accepted the resolution of 13 August 1948. But India's acceptance was communicated to UNCIP on 20 August 1948. Pakistan's acceptance came on 25 December, and Pakistan made use of those months to alter the military situation to its advantage and to the detriment of India. Again Mr. Zafrulla Khan states that Pakistan accepted and India rejected Mr. Graham's proposals of 16 July 1952. But Pakistan's acceptance was subject to the condition that the character of the forces should be the same on either side of the cease-fire line. Mr. Graham's proposals envisaged a different character for the forces on either side and Pakistan's conditions really nullified its so-called acceptance. Finally, on 4 September 1952, Mr. Graham made a proposal of which Mr. Zafrulla Khan significantly makes no mention. India considered that these proposals were "conceived in the right spirit" and "contained the germs of a settlement". Pakistan accepted the proposal subject to the deletion of all reference to India's responsibility for the security of the State. It will be clear to anyone who reads Mr. Graham's proposals that Pakistan's conditions nullified its so-called acceptance. The record shows that Pakistan is not willing to accept any proposal which takes into account the difference in status between the parties as clearly set forth in the UNCIP resolutions. India has given and is prepared to give sympathetic consideration to any reasonable proposal which is based on the recognition of the basic difference in the status of the parties to the dispute.

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Mr. Zafrulla Khan has once again raised the question of canal waters. What are the facts ? There were sixteen canal systems in the undivided Punjab; after partition, as many as twelve belong to Pakistan and only three to India, while the remaining one is divided between the two countries. Eleven million acres on the Pakistan side are canal-irrigated as against only 3 million on the Indian side. West Punjab is a highly developed surplus food area while East Punjab is dry and parched and liable to famine. In December 1947, a standstill agreement for the continuance of the supply of water to Pakistan canals was signed by the Chief Engineers of East and West Punjab, which was to continue until 31 March 1948. But despite reminders, the Pakistan authorities took no steps whatsoever to enter into a fresh agreement. In consequence, with the termination of the agreement, through no fault of the Indian irrigation authorities, the supply of water to the Pakistan canals became also automatically terminated. As soon as this became known, the Prime Minister of India intervened and a fresh agreement was executed and the supply of water resumed on 4 May 1948. The water resources of the entire Indus basin were developed as a single unit prior to the partition. Since the partition of India the position is that out of the 45 per cent of the waters of the basin which are utilized for irrigation purposes. Pakistan received 40 per cent while India received 5 per cent. The rest of the waters of the basin, that is about 55 per cent, flows into the sea. To avoid the wastage and to utilize more of the water supply, talks are in progress to see if some arrangement cannot be worked out to the mutual benefit of both countries and the millions of agriculturists by a greater utilization of the waters of the Indus and its tributaries.

The Council, I feel, will agree with us that Mr. Zafrulla Khan's fear regarding an interruption in Pakistan's water supply, particularly when it is unfounded as in the present case, cannot be a legitimate excuse for, or justify, awarding it the territory of a neighbour. This would be the law of the jungle and not of civilized nations.

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The representative of Pakistan referred to certain troop movements in the sammer of 1951. These India was forced to make and they were a purely defensive and precautionary measure. The Council will remember that Mr. Graham, when he went to the sub-continent last year, reported that he found a tense situation there. Widespread and fierce propaganda for jihad for the conquest of India had been unleashed in Pakistani Threats, insults and provocative statements were made by people in high authority. Feverish preparations for launching such a "holy war" against India were going on. The jihad was being proclaimed as the only effective means of solving the Kashmir and even other problems. No government could be obvious of its responsibilities in such a situation. It could not neglect the necessary protective measures in defence of its own security. Certain defensive movements of Indian forces were carried out. But with the subsequent lessening of tension, the Indian forces moved back as much as from 70 to 450 miles from the border, and it is quite incorrect to say that they are still there now. As I said the other day, propaganda for war against India is again very much in the air in Pakistan. India, however, continues to show forbearance in the face of this provocation, and adheres to its unequivocal assurance that it wishes to live in peace and friendship with Pakistan.

At the end of his statement, the representative of Pakistan made what he described as an "offer"; I do not know if he meant it to be taken seriously. He was willing, he said, to withdraw the Pakistan army from the territory occupied by it in Kashmir. As for the tribesmen and so-called Pakistan volunteers, they have, according to him, already been withdrawn. India, he said, could keep 28,000 men, which it considered necessary for the security of the State, but they should be without any armour or artillery. Mr. Zafrulla Khan, however, forgot to mention what is to happen to the so-called *Azad* Kashmir forces, whose strength is some 30,000 and who are fully armed, equipped and trained by Pakistan. Presumably, this force is to be regarded as a normality. This formidable force is part and parcel of the regular Pakistan army and is as well equipped as any unit in that army. Apparently the restric-

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tions in regard to armour and artillery are to apply only to the Indian and not to the so-called *Azad* Kashmir forces.

It will be recalled that Mr. Zafrulla Khan observed as long ago as 4 August 1948 that the Pakistan army was responsible for the over-all command of the *Azad* Kashmir forces. The High Command of the Pakistan army had also stated that the so-called *Azad* Kashmir forces were operationally controlled by the Pakistan army. That position continues unchanged and the so-called *Azad* Kashmir forces are distinguished in name only from the regular Pakistan Army.

While Mr. Graham's proposals of 16 July 1952, and indeed, the draft resolution submitted by the United Kingdom and the United States [*S/2839*] as well, contemplate a reduction of the Pakistan forces to a figure between 3,000 and 6,000, Mr. Zafrulla Khan's so-called proposal would actually mean a substantial preponderance of Pakistan forces over the Indian security troops. The proposal is ingenuous enough. However, it reverses Mr. Graham's approach and cannot lead to a solution. It is also basically inconsistent with the two resolutions of the United Nations Commission for India and Pakistan and assurances given to us by the Commission. It could not have been seriously thought that such a proposal would be entertained.

In this connexion, I would like to draw the attention of the Council to a particularly outspoken editorial which appeared in the Pakistan newspaper *Dawn* of 19 December 1952. That newspaper, as members of the Council may be aware, is generally believed to be the official mouthpiece of the ruling party in Pakistan. I shall read a particularly virulent extract from this editorial :

> "Bharat's—that is India's—formal rejection of the offer, when it comes, will immediately raise the issue of the next step. If the Security Council does not act even after Bharat's rejection of our offer to hold a plebiscite, practically on Bharat's own terms, then Pakistan must turn to history for alternative. With a full knowledge of the importance and implications of what we next say, we

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do say in the name of Pakistan's 76 million people that Bharat will have to be offered something which she cannot refuse. In other words, failure of the Security Council to act this time can only drive this country to war."

There is little attempt at concealment here. This is not only a threat of war but leaves little in the way of disguise for Mr. Zafrulla Khan's "proposals" which are for maintaining a large equipped army of the *Azad* forces in menacingly large numbers on the other side of the cease fire line. It throws into relief the grave threat to the security of Kashmir, which we are pledged to ensure.

India's position is fully in conformity with the two resolutions of the United Nations Commission for India and Pakistan. It is that all proposals must be based on a recognition of the integrity of the entire territory of the Jammu and Kashmir State and of the responsibility which India has assumed and has for its defence. It follows from the resolution of August 1948 that all Pakistan troops must be withdrawn and all armed formations, including the *Azad* Kashmir forces, Gilgit scouts, etc., which are under Pakistan's control, fully disarmed and disbanded. The administration of the areas evacuated by Pakistan troops will be entrusted to local authorities under the surveillance of the Commission. The local authorities cannot be permitted any military formations, they will, however, have a police force partly armed and partly unarmed.

Under the resolution of 5 January 1949, the Plebiscite Administrator is only responsible for the disposition, that is the location, of the Indian forces. He cannot by himself bring about any reduction in their number. There can be no reduction of Indian forces below the minimum necessary for the maintenance of law and order and the security of the State. This is the legitimate criterion, and it is consistent with our responsibilities and the facts of the case.

It will be seen that the so-called "offer" made by Mr. Zafrulla Khan, instead of being a proposal which points to any solution, actually retards a solution, as it is basically inconsis-

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tent with the resolutions of the United Nations Commission for India and Pakistan and assurances given to us by the Commission. As far as the draft resolution is concerned, I have already fully explained my Government's attitude towards it. I should like to repeat that we reject the proposal contained in it and we are not prepared to enter into any talks on the basis suggested in the seventh paragraph of the resolution.

I would reiterate, without reserve, that we are always, as hitherto willing to extend our co-operation and indeed to explore ourselves every avenue which may lead to a peaceful solution of the problem, which does not ignore or violate the basic principles which are vital to a correct appreciation of the problem and which have been accepted by the United Nations Commission for India and Pakistan and by the parties themselves.

147. *Text of the speech made by Mr. Zafarulla Khan (Pakistan) in the Security Council meeting No. 610 held on 23 December 1952.*

I have been distressed to notice that the representative of India is not feeling very well this morning and that she has been under a strain while she has been addressing the Security Council. I hope and pray that her effort of this morning will not result in any serious discomfort to her and that she will soon get over her temporary indisposition.

I shall now have to make some submissions to the Security Council on the matters that have been placed before the Council on behalf on India this morning. A very large portion of them are really only academic and, if I may say so with all respect, irrelevant to the matters with which the Security Council is now faced. Nevertheless, for the purpose of the record, some observations are due from me, lest it should be thought, if I made no comment on those matters, that I accepted the allegations and statements made on behalf of India.

On certain points there has been some confusion, as was apparent from the statement which the Council has just heard,

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For instance, it is said to start with that one of the points I sought to make the other day [*609th meeting*] was that it was the Maharaja's decision to accede to India that started the whole trouble in Kashmir. Then it was said that the Maharajah's decision to accede was not made until 26 October 1947, whereas the revolt in the State had started some time in August and the tribal incursion had taken place on 22 October. To the best of my recollection, when dealing with that period between August and 26 October, I did not in my previous submission anywhere use the words "the Maharajah's inclination to accede to India" which was well known to the people of his State.

It was then argued that the Maharajah was the legal head of the State and was entitled to offer accession to India or to Pakistan, and when he had offered accession to India, India was entitled to accept it, and the acceptance by India of the accession offered by the Maharajah made the accession complete. I was at pains to make it clear during my previous submission that it was India's own stand, irrespective of Kashmir or Junagadh, which I sought to support by quotations from the speeches of Mr. Ayyangar, that when a State gained independence the paramountcy of the British suzerain lapsed, that sovereignty rested in the people of the Indian States, that the ruler was no doubt the instrument through which the decision to accede to one Dominion or the other—as they then were—was to be expressed, but that where there was a dispute between the ruler and his people, or a difference with regard to accession, the ruler was to ascertain the wishes of the people and then accede in accordance therewith. My point was that long before this alleged accession was offered by Kashmir, not only was there a difference between the ruler and the majority of his people but that difference had taken the shape of a revolt against the authority of the Maharajah and that revolt had gone so far that the Maharajah's troops had been defeated and had had to retreat, and the Maharajah had had to leave the capital before the offered accession to India.

It was said that this revolt within the State was just a part of the disturbances, the killings, the persecutions which were going on the borders of East and West Punjab immediately

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after partition. But that, with all respect, was not so at all. These killings, these persecutions, these expulsions of people from one side to the other—most regrettable and very deplorable—were between the communities, they were communal, they were a species of genocide. The movement in Kasbmir had not that character at all. It was a popular momvent against the tyranny of the Maharajah. It was not directed against any community and I cited in support of this position the statemt of Sheikh Abdullah himself, made in a Press statement on 21 October 1947, before any tribal incursion from outside had taken place. Sheikh Abdullah was then dealing with this popular movement inside the State.

It was also said—it was admitted—that the fact is that a popular movement against the tyranny of the Maharajah had started in the State many years earlier. I think the representative of India said thirty years earlier, but actually the active movement had manifested itself during the early thirties. That, however, is not the material point. At that time it was not the National Conference that was leading the movement, it was the Muslim Conference, though it is true that Sheikh Abdullah was then also one of the principal leaders of this movement. He headed the Muslim Conference; the National Conference did not come into being until height years later. That again, as I have said, is for the purpose of correcting the record.

It was further said, and it is true, that India offered unilaterally that when law and order were restored and the soil of Kashmir was cleared of the invader the United Nations would be asked to hold a plebiscite in order to ascertain the wishes of the people. India having withdrawn its military forces from the State, and it was observed that the soil of Kashmir has not been cleared of the invader and that is why the reference to the people cannot take place.

Let me for a moment examine the position. The invaders at that time referred to in the telegram and in Lord Mountbatten's letter were the tribesmen. The tribesmen have since withdrawn. That is point number one. Point number two is : if the term is said to include the regular Pakistan army, the

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regular Pakistan army has always been ready to withdraw according to the terms of the Commission's resolution of 13 August 1948. It cannot be argued that the people of this State, who took up arms in August 1947, are invaders who have to withdraw anywhere to enable the reference to the people to take place on the question of accession. They are people of the State, they cannot withdraw anywhere else, there has been no demand and could be no demand that they should withdraw anywhere else. With regard to them, the demand is a large-scale disbanding and disarming. Therefore on that point again my submission is that the invader then contemplated has withdrawn and that, so far as the Pakistan army, which was compelled to go in at the beginning of May 1948, is concerned, it has at all times been ready to withdraw in accordance with the terms of the resolution of 13 August 1948.

What is delaying progress in organizing and holding the plebiscite is the refusal of the Government of India to withdraw its forces from the part of Kashmir occupied by India, in accordance with the two resolutions accepted by India.

As regards what happened in May of 1948, there are one or two observations which are necessary in order again to set the picture right.

The representative of India represented my submission to the Security Council as if I had argued that the responsibility for the movement of the Pakistan forces into the *Azaa* Kashmir area lay upon the then Commander-in-Chief of Pakistan. That is by no means the case. I did not urge that; I do not urge that; I have at no time urged that. I submitted the appreciation of the Commander-in-Chief in order to give the Security Council a resume of the situation as it existed. The responsibility for the decision lies where it should, that is to say, with the Pakistan Government. The decision was not the responsibility of the Commander-in-Chief. I have never taken any other position.

It was then asked—I do not know why—whether His Majesty's Government had been consulted before action was taken. I do not know how that obligation arose or is alleged to

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have arisen. Was his Majesty's Government consulted before Indian forces moved into Kashmir ? Was His Majesty's Government consulted, before the offensive of March-April 1948 was mounted, despite the fact that the offensive contained all those elements—a threat to the Mangla headworks, a threat even to the security of Pakistan, a sister Dominion—which I detailed when I last addressed the Security Council ?

Then, the statement was made : "It was alleged that the Pakistan forces went in to hold the line. They did much more than that. They consolidated Pakistan's position in the northern areas." I repeat, with full responsibility, that the Pakistan forces, even in the northern areas to which reference has been made, did not take over any area which had been occupied by or was under the control of the Indian armed forces at any time.

Refernece was also made to the controversy over the no-war declaration. It was not denied that the position, in brief, was this ; the Prime Minister of India was anxious that a declaration should be made by the two Prime Ministers stating only that India and Pakistan would not go to war with each other over their disputes. The Prime Minister of Pakistan said that since the disputes were going on and were even, in fact, being intensified, a bare declaration, as suggested by the Prime Minister of India, would serve no purpose. The two States had already undertaken such an obligation in the United Nations Charter. The disputes, however, had arisen; no way of resolving them had as yet been found; they were in the course of being intensified. What would reassure the people would be a declaration in the following form : "We have decided that these disputes, which threaten a breach of the peace, should be resolved in the following peaceful manner : by negotiation and, if negotiation should fail, by arbitration, judicial determination through the agency of the United Nations, or any other method desired. We agree that neither of us shall take any action against the other which would amount to a threat to the peace or would disturb the peace between the two countries." That was the difference.

I made the submission during my last statement to the

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Security Council that it was not fair to put the matter as if Pakistan had been invited to declare that it would not go to war over these matters and had refused to do so. Our position remains the same as it has always been : these disputes should be pacefully resolved. We continue our attempts to persuade India to agree to methods and procedures which would succeed in resolving these disputes peacefully. I must say, with regret and sorrow, that we have not had the response we desired.

Then, the following complaint was made : "In the meantime, the Pakistan Press goes on publishing articles or statements made by people which threaten the peace between the countries; it goes on saying that, if these matters are not peacefully resolved, they may have to be resolved by force." So far as the Press and speeches in my country are concerned, I would say this : India is far ahead of us in almost every field—I make this statement deliberately and with responsibility—and even so far as the licence of the Press and the platform is concerned, India does not yield its place to Pakistan. That, however, is not the point.

The point is this : if disputes of this magnitude and character are not peacefully resolved, what is the alternative ? How are they to be resolved ? The matter might get out of hand. Someone, out of a spirit of pure mischief, might do something which might lead to a chain of circumstances which might become irrevocable. It is therefore necessary that every effort should be bent towards an early, peaceful resolution of these disputes.

To take up the position : "We shall not move from our own stand except on our own terms and on our own interpretations of our agreements, resolutions or obligations", and then to say, "The other party has no business to show impatience or frustration or to talk of anything but remaining peaceful", remainds one of an Urdu proverb—which is as familiar to the representative of India as it is to me—to the effect that the tyrant strikes and does not permit the victim even to protest.

Then a reference was made to the Junagadh State. In the

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first place, the reference to the Junagadh State is not as irrelevant as the representative of India sought to make out : it is one of the matters pending before the Security Council. There is a direction, in one of the resolutions of Security Council, to the United Nations Commission for India and Pakistan concerning the report on Junagadh, and the United Nations representative had the same responsibility as UNCIP had. But that is, not the matter which I desire to stress. The reason why I cited Junagadh had regard to India's interpretation of the basis of partition and the factors upon which accession is to be based : in one case, in one manner; in the other case, in another manner. The only distinguishing feature that has been mentioned is that Junagadh is not continuous to Pakistan by land. But is that a matter which would take the case out of the category of an independent State, the ruler of which belongs to one community and the majority of the people to another ?

What are the principles that are to apply to this question of accession ? The Indian Prime Minister has, in this case, laid down very clearly what, according to India, should be the principles.

Then we come to the two resolutions. In regard to the resolutions, it was pointed out by the representative of India that the resolution of 13 August 1948 was accepted by India on 20 August 1948, and was not accepted by Pakistan until towards the last week of December 1948. That is correct. What has not been mentioned—and it is a fact to which attention should be drawn—is that the resolution of 13 August, as is quite clear from the records, although it concerns itself with a cease-fire and a truce agreement thereafter, stops short there and does not go on, apart from a general expression in part III to the effect that the future of the State shall be decided in accordance with the freely expressed wishes of the people, to formulate any proposals with regard to the organizing and the holding of the plebiscite, which was the main matter upon which the Security Council had been agreed, namely, that that was the one factor reassurance with regard to which could alone bring about a cessation of the fighting.

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When the Commission went on to formulate proposals with regard to the organizing and the holding of the plebiscite, according to ths second resolution, Pakistan was able to accept both. But that really makes no difference to the position. The two resolutions—the resolutions of 13 August 1948 and 5 January 1949, which now form one whole—were accepted by both India and Pakistan in the last week of December 1948 and consequently, a cease-fire was arranged effective from 1 January 1949. Everybody was in hopes that, the cease-fire having been arranged, a truce agreement would also be arranged and, thereafter, the plebiscite held in accordance with the provisions of the resolution.

The representative of India went on to refer to certain matters which are not in accordance with the resolutions. In the first place, attention was drawn to the problem of the security of the State. With regard to the security of the state, the two resolutions have nowhere made the security of the State the sole responsibility of India. That is a matter that must be cleared up. We—India and Pakistan—are, I conceive, agreed upon this, that we both accept the two resolutions. It has been stressed on behalf of India, in the first submission that was made to the Security Council during these discussions by the representative of India, that India will not permit anybody to go beyond those resolutions, that India insists upon strict adherence to the resolutions. We agree. We are willing to proceed on that basis. Then, what provision do the two resolutions make with regard to the security of the State of Jammu and Kashmir pending the organizing and the holding of the plebiscite ? The resolutions are quite clear on these matters. The resolutions of 13 August, part II, section B, paragraphs 1 and 2, read as follows :

> "1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of

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Jammu and Kashmir, and further, that the Pakistani force are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.

"2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary."

Those are the obligations undertaken by India in accepting that resolution, up to a certain stage. This was followed by the other resolution, to which I shall refer later. These are the two obligations undertaken : one, when the Commission is satisfied of certain things and has so notified the Government of India, then the Government of India will begin to withdraw the bulk of its forces from the State of Jammu and Kashmir. And then what was to happen, pending the acceptance of conditions for a final settlement ? "...the Indian Government will maintain within the lines existing at the moment of the cease-fire"—that is to say, on its own side of the cease-fire line—"the minimum strength of its force", not determined solely by itself, but "which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order". Where, either in this resolution or in the other, is authority given to the Government of India, or reserved by the Government of India, to determine, by itself, the strength of forces necessary to be retained in the portion of the State occupied by India after the bulk has been withdrawn ? There is no such authority, no such resolution.

The obligation of India is quite clear to begin to withdraw the bulk of its forces on receipt of a certain notification from the Commission, in the first place ; and in the second place, to maintain within the cease-fire line the minimum strength of its

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forces which, in agreement with the Commission, are considered necessary to assist local authorities in the observance of law and order. That is number one.

Now, what does the second resolution provide ? The second resolution—that is, that is the resolution of 5 January 1949—provides, in paragraph 4 (*a*) :

> "After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State"—when the Commission is satisfied, and now, in place of the Commission, when the United Nations Representative is satisfied—"the Commission and the Plebiscite Administator will determine"—not the Government of India—"in consultation with the Government of India, the final disposal"—not "disposition"—"of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite."

It is obvious here that the responsibility for the determination—after consultation with the Government of India, no doubt—of the forces that are to remain rests upon the Commission and the plebiscite Administrator, and they are to determine and to make the final disposal of Indian and State armed forces. But, in determining this final disposal—the numbers and locations, etc.—they shall have "due regard to the security of the State and the freedom of the plebiscite". No doubt, they must take into account all that the Government of India may have to say on the security of the State, because this determination will take place "in consultation with the Government of India". They must also take into account all that may be urged with regard to the freedom to the plebiscite. Having carried out the consultation with the Government of India and taken into account the security of the State and the freedom of the plebiscite, they shall determine the final disposal.

On the other side, the situation would be as follows under the resolution of 13 August 1948, part II, A, 1 and 2 : the

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tribesmen having withdrawn, the Pakistan nationals who may have entered the State for the purpose of fighting having withdrawn, the Pakistan regular forces having been simultaneously withdrawn—beginning the withdrawal, but thereafter being simultaneously withdrawn with the bulk of the Indian forces—there would be let on the Pakistan side, in *Azad* Kashmir, the *Azad* Kashmir, forces. That is how the full implementation of the resolution of 13 August 1948 would would leave the situation. On the *Azad* Kashmir side, there would be no tribesmen, Pakistan volunteers who may have entered for the purpose of fighting, no Pakistan regular forces ; there would be only *Azad* Kashmir forces, which, according to the clear declarations of the Commission to the Government of India and to the Government of Pakistan while these resolutions were under discussion, were not to be touched during that period. They would be there. On the other side of the cease-fire line, there would be the limited number of Indian forces and the State armed forces.

The Plebiscite Administrator takes over at the end of the 13 August 1948 resolution. Then he along with the Commission, shall determine, on the one side—on the side occupied by Indian—the final disposal of the Indian forces and the State armed forces ; and, under paragraph 4 (*b*) of the resolution of 5 January 1949, "as regards the territory referred to in paragraph A, 2 of part II of the resolution of 13 August"—that is to say, the *Azad* Kashmir territory—"final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities".

The language is identical : on the one side, "in consultation with the Government of India", the Commission and the Plebiscite Administrator will determine "the final disposal" of the forces on that side ; on the other side, "in consultation with the local authorities", the Commission and the Plebiscite Administrator will determine "the final disposal" of the forces on that side.

We know what the forces will be : one side, *Azad*

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Kashmir forces : on the other side, the limited number left—after the bulk has been withdrawn—of the Indian armed and State armed forces.

The position under the resolutions is quite clear. The representative of India has insisted that the resolutions must be strictly adhered to. We agree. We have in the past agreed to either course—and I shall reiterate—we are prepared that the two resolutions should be strictly enforced, as I have just submitted, in two parts. Under the first part, the tribesmen and Pakistan volunteers who may have entered the State for the purpose of fighting shall withdraw as soon as the truce agreement has been signed—as a matter of fact, I have said that they have actually withdrawn, but I am now reiterating the obligation—and the Pakistan regular army shall begin to withdraw. When the Commission is satisfied that the tribesmen have withdrawn, that the Pakistan volunteer have withdrawn and that the Pakistan army has begun its withdrawal the Government of India shall begin to withdraw the bulk of its forces. On completion of the implementation of the 13 August 1948 resolution, then, the Pakistan volunteers and tribesmen shall withdrawn, the Pakistan regular army shall have withdrawn, and, on the other side, the bulk of Indian forces shall have withdrawn. There shall left, on the *Azad* Kashmir side, only the *Azad* Kashmir forces ; there shall be left, on the territory occupid by India, limited forces of the Government of India "necessary to assist local authorities in the observance of law and order"—that is in accordance with part II, paragraph B, 2 of the resolution of 13 August 1948—and the State armed forces.

Then the Plebiscite Administrator takes over. He then carries out the final disposal of the forces on both sides : on the side of the Governmrnt of India, "in consultation with the Government of India" and "with due regard to the security of the State and the freedom of the plebiscite", and on the *Azad* Kashmir side "in consultation with local authorities".

The whole thing is perfectly clear. We are willing to proceed on that basis.

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Before I go on to deal with the intervening submission that was made by the representative of India, I shall here deal —so that I do not have to revert to these matters later—with her criticism of what she has been pleased to term my offer. Now that the Council has before it these clauses of the two resolutions dealing with demilitarization, this would be the appropriate moment to dispose of that matter.

I have said—and I shall now try to clarify the matter again—with regard to the obligation undertaken by India under the 13 August 1948 resolution to withdraw the bulk of their forces, difficulty has arisen because the bulk could not be determined. I shall not go over again the meetings 9 March and India's refusal to place its proposal on the table, as it is already on the record and it is not necessary to repeat it. The difficulty was that the bulk could not be determined. I said that India had itself now determined the bulk. In addressing the Security Council on the first occasion, 8 December 1952 (*608th meeting*), the representative of India said this :

> "In view of the considerations which I have mentioned, and after careful examination and assessment by its experts, the Government of India had come to the conclusion that a minimum force of 28,000 was required to carry out its responsibilities. However, on complete disbandment and disarmament of the *Azad* Kashmir forces, and as a further contribution towards a settlement, the Government of India is prepared to effect a further reduction of 7,000, to a figure of 21,000, which, is the absolute and irreducible minimum. I should like to emphasize that this figure, which includes the former State armed forces, represents less than one-sixth of the Indian forces at the time of the cease-fire. It should further be emphasized that this force will have no supporting arms such as armour or artillery. In addition to its other duties, this small force would also be responsible for policing the cease-fire line on the other side of which is the aggressor. This line is several hundred miles long and runs through difficult and mountainous terrain. This force has also to

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guard the extensive borders of the State of Jammu and Kashmir. A glance at the map will be sufficient to indicate the magnitude of the task with which the proposed force will be entrusted."

My submission was this. Here India had put forward its own determination of what it need to carry out its responsibilities, which include, as expressly set out, the maintenance of the cease-fire line, the security of the State, assisting local authorities in the maintenance of law and order. It needs a force of 28,000, which includes State armed forces, and it can carry without armour or artillery.

The determination of the bulk has to be made not by the Commission under part II, paragraph B, 2. After the bulk is withdrawn, India can maintain, within the lines existing at the moment of the cease-fire, the minimum strengh of its forces which, in agreement with the Commission, are considered necessary to assist local authorities in the observance of law and order.

What I said was this : "We do not insist that the determination of this number should be in agreement with the Commission. We are prepared to accept India's own estimate of the minimum number that is required for the purpose of the 13 August resolution—that is to say, that in order to comply with paragraphs B, I and 2 of the resolution of 13 August 1948, we shall accept that number as representing the minimum that the Government of India considers necessary for the maintenance of law and order and for the purpose of safe-guarding the security and the maintenance of cease-fire line—that is to say, the 28,000".

India's case goes further. They say : "When you have completely disband and disarmed the *Azad* Kashmir forces, we will make a further reduction". That is a matter of controversy, of interpretation. I submitted : "Let us proceed at least as far as we can in the implementation of these resolutions on the basis of agreement before the controversy arises. The controversy would arise when you start on the disbanding and the disarming of the *Azad* Kashmir forces and final disposal of the

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remaining Indian State armed forces. We shall leave that aside for the moment."

Are we or are we not agreed that India can discharge all its responsibilities under the resolution of 13 August with a minimum of 28,000 troops, including the State armed forces without armour and artillery ? We consider that it is a high figure. We are certain that if the Commission had to make the determination it would be able to place the figure at a much lower one. But in order to make a move and to show that both sides are prepared to go on with the implementation of these resolutions, we are prepared to accept that figure as representing the minimum that the Government of India is permitted to maintain within the cease-fire lines of its forces for the purpose of assisting the local authorities in the maintenance of law and order. Incidentally, India is satisfied that minimum is enough for it to discharge other duties also which India mistakenly thinks that under the resolution it is solely for it to determine. It is not. Nevertheless, for the moment they are satisfied that 28,000 will be sufficient for all those purposes and we have accepted that. Let us go forward.

So far as the resolution of 13 August is concerned, it is before the Commission and there are no secret clauses in it. These is nothihg here, not one word, that is any indication that during that stage—I want to emphasize that because to some extent the positian as it has been represented in the Press has been misunderstood—that does not finish the demilitarization. During that stage of the demilitarization, as laid down in this resolution and as accepted by both sides, we shall do whatever the resolution lays down for us to do under section A, paragraphs 1, 2 and 3. India has to do whatever the resolution lays down under section B, paragraphs 1 and 2. Under section B, paragraphs 1 and 2, India itself has determined the number to be 28,000. We accepted that. Let us go forward with the implementation of section A, paragraphs 1 and 2—paragraph 3 of section A does not relate to demilitarization—and section B, paragraphs 1 and 2.

As I submitted on the last occasion [*609th meeting*], the question of the disbanding and disarming of the *Azad* Kashmir

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forces, arises only under paragraph 4 (*b*) of the resolution of 5 January 1949. Now, when you have done with the resolution of 13 August 1948, then the Plebiscite Administrator takes over. The resolution of 5 January 1949 so provides. Then the Commission, now represented by the United Nations Representative and the Plebiscite Adminstrator, under paragraph 4 (*a*), "will determine, consultation with the Government of India, the final disposal of Indian and State armed forces".

Then we have the words "such disposal to be with due regard to security of ths State and the freedom of the plebiscite." We agree. We do not want any addition to that. Then on the othe side, we have the words "final disposal of the armed forces in the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities." We are not asking for anything more. We are not putting any additional clauses in the resolution. We are prepared to go forward.

The point reiterated throughout has been that India will not depart from the two resolutions, that we must strictly adhere to them. We agree. We do not seek to depart from the two resolutions and we are prepared to adhere them. The puzzling position that arises is the fact that India goes on saying—as if it were in two parallel lines—that on the one side we must adhere to the resolutions and that it cannot accept anything else. But when India is called upon to adhere to the resolutions, it starts asking for a great deal more, which is not provided for at all in the resolutions or which is provided for during the stages in which India requires it.

Let us take this question of the disbanding of the *Azad* Kashmir forces. It is absolutely clear from the extracts which I read out at the last meeting from the reports of the Commission, that the following was made clear by the Commission to Prime Minister of India—the proposals of 13 August had not yet become a resolution—when discussing the resolution of 13 August 1948 : we are aware of the dangers in the situation. We have tried to strike a military balance. Under our proposals —which were then the proposals of 13 August 1948—there will

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be left on the Indian side the limited number of forces, designed to assist the local authorities in the maintenance of law and order, and the State armed forces. There will be left on the *Azad* Kashmir side only the *Azad* Kashmir people in their present positions. The Pakistan army will have been withdrawn, the tribesmen and volunteers will have been withdrawn.

This was explained to the Prime Minister of India and he understood the meaning of the proposals of 13 August 1948 in that sense. The Commission later explained to the Pakistan Government that it ways seeking to establish a military balance during that period. There will be limited Indian forces on the other side, and the *Azad* Kashmir forces will not be disarmed or disbanded during that period.

There is nothing in the resolution of 13 August to require that. There is nothing in the explanations given by the Commission to require that. We admit that a large-scale disbandment and disarming of the *Azad* Kashmir forces, at a subsequent stage, was contemplated by the Commission. That is the meaning of paragraph 4 (*b*) of the second resolution, that is, that the "final disposal of the armed forces in that territory" —*Azad* Kashmir—"will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities". We accept that. We do not go back on it.

What the stage is reached the Commission and the Plebiscite Adminstrator will determine the final disposal of the forces left on both sides. We shall accept what they decide, in consultation with the local authorities on the one hand, and in consultation with the Government of India on the other hand.

The curious complication that is again sought to be raised by India is the following : it insists that during the stage of the demilitarization contemplated under the resolution of 13 August 1948, there should be a disbanding and disarming of *Azad* Kashmir forces. Where is that provided for in that resoultion ? When did the Commission say, either to the Government of India or to the Government of Pakistan that was contemplated under any of the clauses of that resolution ? On the other hand, I have cited quite clear explanations of the

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Commission to both sides, to the effect that during that stage the *Azad* Kashmir forces will not be disbanded or disarmed : the will remain in their positions. There are provisions to that effect in paragraph 4 (*a*) and (*b*).

India has sought to put its own interpretation on the words "final disposal". I shall not detain the Council by submitting a detailed argument on the meaning of the words "final disposal" as it appears in paragraphs 4 (*a*) and (*b*) of the resolution. All I will do at this moment is to say the following : here are the words "final disposal of Indian and State-armed forces", contained paragraph 4 (*a*), and the words "final disposal of the armed forces in that territory"—meaning the *Azad* Kashmir Territory—contained in paragraph 4 (*b*).

Mutatis mutandis, the language is identical in the two sub-paragraphs. Whatever the words "final disposal" mean in paragraph 4 (*a*), they mean the same in paragraph 4 (*b*). What ever they mean in paragraph 4 (*b*), they mean the same in paragraph 4 (*a*).

I shall not carry the argument further now. I am not seeking to place any restrictive interpretation upon it or any extensive interpretation upon it. I am willing that we should go forward with the implemention of the 13 August resolution. When the Commission is satisfied that Pakistan volunteers who had entered the State for the purpose of fighting have withdrawn, and when they are satisfied that the Pakistan army has begun its withdrawal, then India will begin to withdraw the bulk of its forces in stages to be agreed upon with the Commission. Let that operation be carried out. It was held up by the difficulty of ascertaining the bulk of the Indian forces and the minimum number of its forces to be retained. The Government of India has given the figure of 28,000, including the State armed forces, with no armour or artillery.

This is not a determination by the Commission but by the United Nations Representative ; we are preparcd to accept it and to go forward on this basis.

One or two matters have been raised incidentally. It is said that we have offered to withdraw our armour or artillery,

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but there is no mention of it on the other side. Are armour and artillery to remain on the other side ? Again, whatever the meaning of the resolutions may be, I admit it is a relevant consideration. Whatever armour and artillery are withdrawn from the other side shall be withdrawn from the *Azad* Kashmir Territory also, if any of the *Azad* Kashmir forces are equipped. If they are, they shall be withdrawn, as part of that operation, but before we pass on to the disbanding stage. I accept that position.

But then it is said : the *Azad* Kashmir people are in the operational control of the Pakistan army and they are practically a part of the Pakistan army. They are under the operational control of the Pakistan army, it is true. The Pakistan army will withdraw in the stage of demiltarization contemplated in the resolution of 13 August 1948. When the Pakistan army withdraws from that territory, it will cease to exercise operational control over the *Azad* Kashmir forces. They will be under the operational control of their own officers. The Pakistan army will not continue to exercise any operational control over them. Therefore, the argument based upon continuing exercise of operational control is met and should be considered to be completely satisfied. All that will remain will be the *Azad* Kashmir forces under their own officers, under the local authority, that authority being under the surveillance of the Commission as provided by part II, paragraph A, 3 of the resolution of 13 August 1948. There is no confusion. We shall not try to say on the one hand that we are willing to carry out the resolution, and then to put forward conditions which subtract from the resolution or nullify the resolution.

We mean what we say and we shall be prepared to carry out what we say, namely, to implement the terms of the resolution as now determined with regard to numbers by the figure offered by India.

It was then said that the *Azad* Kashmir forces would remain, and that was not contemplated. But that I accept; they are to be dealt with under paragraph 4 (*a*) and (*b*). If the Plebiscite Administrator, in dealing with that question in consultation with the local authorities, comes to the conclusion that

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there shall remain only 500 of them, we shall not object; we shall agree. It is for the Commission and the Plebiscite Administrator, in consultation with the local authorities, to determine their final disposal. Equally, if the Plebiscite Administrator and the Commission, in consultation with the Government of India, come to the conclusion that on the other side there shall remain, let us say, a force of 15,000 out of the 28,000 that are left, while there should be only 1,000 on the *Azad* Kashmir side, we shall accept that too. That is for them to determine in consultation. They will hear each side and will then arrive at their determination. Where under these two resolutions is there any provision or implication that it is solely for the Government of India to decide what their irreducible minimum is or that it is soley for the Pakistan Government to decide whether they shall or shall not withdraw Pakistan forces ? Or where is it stated that it is for the Pakistan Government or the *Azad* Kashmir authorities to decide how much they shall retain? Both sides agreed to place this matter in the hands of impartial authorities of international standing who will hear both sides and make a determination. We adhere to that and have no desire to depart from it. Is India prepared to adhere to it and has India any desire to depart from it ? Where did they get this idea that it is for them to decide the forces necessary for the security of the State, how many must remain or what the irreducible minimum is ? That is by no means the case; they know what they agreed to and if language means anything they have already agreed that after the bulk of the forces is withdrawn the final disposal of the Indian and State armed forces, with due regard to the security of the State and the freedom of of the plebiscite, shall be carried out by the Commission and the Plebiscite Administrator in consultation with the Government of India, We are not seeking to minimize the fact that it is equally agreed by the Government of India that as regards the *Azad* Kashmir territory, the final disposal of the armed forces in that territory—that is to say the *Azad* Kashmir forces—will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities. We shall accept both determinations; we shall not withdraw from that. If they are satisfied that a number much in excess of what we think is

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needed on the other side is needed, and they so determine, we shall accept that determination. If they decide that a number far below that which we consider to be necessary on the *Azad* Kashmir side will satisfy the requirements of the situation, we shall accept what they say and we shall not withdraw—from our agreement. Is India prepared to do the same ?

My offer therefore was this. India itself has put forward a number which we consider too high, but it has said that a force of 28,000 is necessary, including the State armed forces, without armour and artillery, for the discharge of all their responsibilities. We say that is all right; this has not been determined by the Commission, but in order to make some progress we agree to it.

It is then stated with reference to the *Azad* Kashmir forces that although they are to be dealt with in accordance with paragraph 4 (*b*) no one has made an effort to meet India's wish that a substantial number of *Azad* Kashmir forces should be disbanded and disarmed at the very first stage of demilitarization. India says that it will not do what is required under paragraph 4 (*a*), it wants paragraph 4 (b) of the resolution of 5 January to be carried out. It is not willing to accept the carrying out of paragraph 4 (*a*) and that has been the trouble all the time.

When India raised this question of *Azad* Kashmir, Pakistan tried to meet its wishes and tried to frame some scheme under which those wishes could be met. India said that we were including State armed forces on the Indian side and that that was not provided for. However, it is clearly provided for in paragraph 4 (*a*). Therefore, strict adherence is refused because the *Azad* Kashmir forces are not included in the first stage and, when the *Azad* forces are sought to be included—which would necessitate a further reduction on the Indian side—India will not agree to this and says it cannot be done.

I want to make our position on that point quite clear. Although armour and artillery are not specifically mentioned anywhere, they were referred to by the representative of India,

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who said that those forces will have no armour or artillery and it was therefore only fair to ask what the position on the other side would be. The position will be that, when there is no armour or artillery on their side, there will be none on our side, though the *Azad* Kashmir forces may still be in possession of some.

There are one or two intermediate matters to which I should like to refer. The dispute about water has been mentioned. The bulk of the irrigation system water, before partition, went into the West Punjab while a small part went into the East Punjab. That is true, but what has not been mentioned is this : East Punjab, after the province was divided, pointed out that the whole of this irrigation system was developed by the joint resources of the province before it was partitioned. The greater part had gone into West Punjab for geographical reasons and East Punjab wanted credit for the extra share of the irrigation system which had gone to West Punjab. That share was determined and the question then arose of the amount of compensation which East Punjab should receive. We said that they should receive their proportionate share of the capital cost of the project, but they said that as the project had turned out to be a very profitable one it would be unfair to determine its present value on the basis of the original cost of construction. A tribunal was set up to determine the matter and it agreed that India, in respect of the excess for which it was entitled to receive compensation, should receive twice the amount of the original capital cost. That was the compensation awarded to India, and that settled the question of the fifteen main canals, twelve on one side and three on the other. India next asked the Commission to determine who should have the water.

India stated that West Punjab was an area of food surplus and that East Punjab was an area of deficit. That was true at the time of partition and no doubt it meant that such water resources as were available so each side must be fully developed, but in order to improve matters on one side you cannot take away what the other was entitled to. That would be contrary to the basis of partition, contrary to international law and contrary to the principles determined by Sir Benegal Rau

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himself when he presided over tha Commission. However, I will leave that aside because it is not the question which the Security Council is dealing with today. But I do wish to put before the Council that in consequence of the action taken by the Government of India, West Punjab today is a deficit area and East Punjab is beginning to be a surplus area as a result of this diversion of water. In the meantime, the representative of India has said that officers of the International Bank are now investigating the possibility of using more and more water for this purpose, and in spite of repeated requests, in spite of India's agreement that supplies will not be interfered with, India is going on with the construction of its works in consequence of which it can at any moment divert every drop of water from West Punjab and Pakistan. Those works are proceeding and some of the new canals have been opened, as a result of which we are getting much less water. But, as I have said, this is not the question now before the Security Council and I merely mention it in connexion with the apprehensions raised in the minds of the people of West Punjab and of the Government in connexion with the threat to the Mangla Headworks in consequence of the offensive mounted by India in April 1948.

We are told : "If a threat arises and Pakistan moves its troops, that would be the law of the jungle." But who started applying the law of the jungle ? I have described to the Security Council what took place in Junagadh. The Council is aware of the situation in Hyderabad, because that matter is also on the agenda and statements on it have been made to the Council on several occasions. India moved its troops into Junagadh and took possession of it. India moved its troops into Kashmir and took possession of the greater part of it. Who has been practising the law of the jungle ? India turned off the waters, because it was the upper riparian owner and could control the waters. Who has been practising the law of the jungle ? But the Pakistan Press and the Pakistan people speaking from the platform must not say these things : that is what annoys India. That reminds me of a verse, the English translation of which runs as follows : "I am denounced if I bteathe a sigh of protest. Nobody protests against his killing."

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It has been said that India is prepared to go fcrward on the basis of the two resolutions, but will not accept anything which is inconsistent with those basic resolutions. We are not asking India to do anything inconsistent with those resolutions. As I have already explained, all that we desire is that India should move forward with them. One could match all this talk of aggression, of the law of the jungle, of the sufferings, and so on. Not only could one match it : one could drew pictures of actual occurrences far more lurid than could be drawn on the other side. From the very first moment when I addressed the Security Council, I have said that deplorable things were happening on both sides. It would be unprofitable to attempt to strike a balance in that regard.

The question is : Are we prepared to go forward on the basis of the agreement which we have made—an agreement which has been approved by the Security Council and is before the whole world in the form of two resolutions ? We are and have at all times been prepared to go, forward. If India is also prepared to do so, we can do any of the following things : we can strictly apply the terms of the resolutions and allow the United Nations Commission to determine the minimum number of Indian troops which should remain on the side of the State occupied by India during the first part of demilitarization. The bulk of the Indian troops would then be withdrawn. We should accept that determination. Would India ? The determination would be made in consultation with India. Once it had been made, we should begin to withdraw our regular troops and India would begin to withdraw the bulk of its troops. Thereafter, the Plebiscite Administrator would take over. The final disposition of the forces remaining on both sides would be made by the Plebiscite Administrator. We are prepared to accept that course ; it is a strict interpretation of the two resolutions.

If, as I have said previously, India is for some reason apprehensive that that situation, though agreed upon, involves some kind of danger or threat to it, and if India desires that, as part of the first stage of demilitarization, a large-scale disbanding and disarming of the *Azad* Kashmir forces should also take

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place, we are equally willing to accept that—in other words, the implementation of paragraph 4 (*b*) of the resolution of 5 January 1949—provided paragraph 4 (*a*) is implemented simultaneously.

We have no objection to either course; we are prepared to go forward on the basis of either. We have accepted all previous plans which have been put forward to carry out these ideas.

I have already explained Pakistan's position on the draft resolution [*S/2839*] now before the Security Council. I would only add this : if, in the further stage contemplated in the draft resolution, agreement should, unfortunately, not result, a report by the parties would be either a summary or an expansion of the parties' submissions which the Security Council has already heard.

I should like to state, once again, that we are prepared to go forward on the basis of the draft resolution now before the Security Council, subject to the suggestions which I made when I last spoke and which might improve the situation, as well as the possibilities of reaching an agreement between the two sides.

148. *Text of the speech made by Mr. Noon (Pakistan) in the Security Council meeting No. 761 held on 16 January 1957.*

It is my duty to have to report to the Security Council that the direct negotiations initated by the Government of Pakistan with the Government of India in 1953, on the suggestion of Mr. Frank P. Graham, United Nations representative for India and Pakistan, for resolving the deadlock over the implementation of the international agreement for a plebiscite in the State of Jammu and Kashmir, have failed in their objective.

The failure of the direct negotiations is due soley to the intransigent attitude adopted by the Government of India and its unwillingness to honour its international obligations freely assumed by it towards the end of 1948.

The Government of India is taking steps to integrate the

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State of Jammu and Kashmir into the Indian Union, reportedly on 26 January 1957, in definance of the Security Council's clear directives and of its own freely accepted international obligation that the question of the accession of the State of Jammu and Kashmir to India or Pakistan shall be decided by the democratic method of a free and impartial plebiscite to be conducted by the United Nations.

The Security Council will recall that the international agreement to which I have alluded is contained in the two resolutions adopted by the United Nations Commission for India and Pakistan on 13 August 1948 [S/1100, para. 75] and 5 January 1949 [S/1196, Para. 15]. These resolutions were accepted by the Governmements of India and Pakistan and have time and again been endorsed by the Security Council. According to this international agreement the question of the accession of the State of Jammu and Kashmir to India or to Pakistan is to be decided by the democratic method of a free and imparatial plebiscite to be conducted under the supervision and control of the United Nations.

I shall not labour the Security Council with the history of the dispute. That is well known and is recorded with a wealth of detail in the verbatim records of the proceedings of this august body. At this stage I shall only allude to certain salient features of the problem necessary for the understanding of the case.

India before August 1947 was comprised of British India and the Princely States. British India was government directly by British.

The Princely States enjoyed varying degrees of internal autonomy which was regulated by a number of treaties and agreements that the British Power had entered into with them. They, however, had no international status, inasmuch as their foreign relations, defence and communications were invariably the responsibility of the suzerain power, the United Kingdom. The Governor-General of British India acted as Viceroy in his capacity as the representative of the British Crown in its relations with the Princely States. The Princely States had no

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power to make peace or war to negotiate or communicate with any foreign State. Even their internal sovereighty was restricted by the right of the Crown representative to intervence in their affairs, for example, for the benefit of the State administration, the welfare of the ruler or the people or of India as a whole, and also for giving effect to international commitments. In short, the Princely States, including Jammu and Kashmir, were more or less protectorates under the British Crown.

Let us now recall the change which took place in the status of the Princely States when British rule in the Indo-Pakistan sub-continent came to an end.

When partition of the sub-continent into the two sovereign States of India and Pakistan was agreed upon, the United Kingdom Government declared that the paramountcy of the Crown over the Princely States would lapse on the day the sub-continent became independent. The States would them be free to accede either to India or to Pakistan. The Viceroy and Governor-General, Lord Mountbatten, who represented the suzerain—the King of the United Kingdom and Emperor of India—however, advised the Princes of India on 25 July 1947 that in deciding the question of accession, they must pay due regard to the communal composition, the wishes of their peoples and the geographical location of their States. He warned: "You cannot run away fromt he Dominion Government which is your neighbour any more than you can run away from the subjects for whose welfare you are responsible."

The basis of partition of the British Empire in India, as set forth in the statement of the then Prime Minister of the United Kingdom on 3 June 1947 was that Pakistan would be constituted by the contiguous Muslim-majority areas in the north-west and the north-east of the sub-continent, and India would comprise contiguous non-Muslim-majority areas.

It was thus universally assumed that, following the basis adopted for partition, Princely States with a Muslim majority in population contiguous Pakistan would accede to Pakistan.

Thus in the case of Jammu and Kashmir the position was crystal clear. Here, although the ruler was a Hindu, 77 per cent

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of the population was Muslim. The State territory was contiguous to Pakistan. Political, economic, strategic, cultural, geographical and other considerations all made accession to Pakistan th: natural course.

The Government of India and the Indian National Congress were in full agreement with the advice that Lord Mountbatten has given to the Indian rulers on the subject of accession. Had this advice, which was based on the principle underlying partition, been honoured by India, or had India consistent even in its own conduct on the issue of accession, there would have been no dispute regarding the three States of Jammu and Kashmir, Junagadh and Hyderabad.

The Nawab of Junagadh, a Muslim ruler, acceded to Pakistan, although the State had a majority of Hindu population. The Government of India protested in the strongest terms. Its view was that, on the lapse of British paramountcy, sovereign rights in an Indian State reverted to its people. A Muslim ruler could not speak for his non-Muslim population. In its telegram dated 22 September 1947, the Governmment of India considered the acceptance by Pakistan of Junagadh's accession as an encroachment on Indian sovereignty and territary. The Government of India characterized it as "a clear attempt to cause disruption in the integrity of India by expanding the influence and boundaries of the Dominion of Pakistan in utter violation of principales on which partition was agreed upon and effected". Subsequently, the Indian Army invaded Junagadh and the States was occupied by Indian by force.

In the matter of Hyderabad, a Hindu majority State of the size of France and having a population of 15 million with a Muslim ruler, the conduct of the Government of India was also inspired by similar considerations. The Nizam, a Muslim ruler, did not wish to accede either to India or Pakistan. He wanted instead to enter into special treaty relations with the Government of India in order to preserve a measure of independence for his State and was prepared to hold a plebiscite on this issue. That the Nizam a Muslim ruler of a Hindu-majority State should refuse to accede to India, even though

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he was prepared to let his people decide this question by means of a plebiscite, was intolerable to the Indian Government. In September 1948, the Indian Army invaded Hyderabad and, after defeating the Nizam's army, occupied his State and subject it to military rule.

The Indian stand, therefore, was that a State with a majority of Hindu population had no choice but to accede to India, even if its Muslim ruler did not wish to do so. In such a case, the Government of India was not prepared to entertain the very conception of a plebiscite. It followed, therefore, from the Indian thesis that a State whose majority was Muslim had no choice other than to accede to, and must be deemed to have acceded to, Pakistan, even though its Hindu ruler might decide otherwise.

When it came to Kashmir, however, India abandoned this thesis. Here was a case of a Hindu ruler offering to accede to India, in spite of the fact that 77 per cent of the State's population was Muslim. Thus, when the opportunity offered itself, the Government of India accepted, against the known wishes of the people of the State, a spurious offer of accession from the Maharaja, who had already been driven out from his seat of Government by his people and lost whatever semblance of authority he exercised over his subjects. Indian armed forces were flown to Kashmir to subjugate the Muslim population. Since then, India has remained in forcible occupation of Kashmir that contains the major part of the population of the State.

This is how the dispute arose. Had India honoured the basis on which the Indian States were to acceed to Pakistan or to India, or had India's conduct with regard to Kashmir been consistent with its own conduct in respect of Junagadh and Hyderabad, no such dispute would have arisen.

While accepting the Maharaja's offer of accession, however, the Indian Government gave a solemn pledge that this accession was to be conditional. In its reply to the Maharaja on 27 October 1947, it categorically said :

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"In consistence with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of the State's accession should be settled by a reference to the people."

Four days later, on 31 October 1947, the Prime Minister of India telegraphed to the Prime Minister of Pakistan :

"Kashmir's accession to India was accepted by us"—is, by India—"at the request of the Maharaja's government and the most numerously representative popoular organization in the State which is predominantly Muslim. Even then, it was accepted on condition that, as soon as the invader has been driven from Kashmir soil and law and order restored, the people of Kashmir would decide the question of accession. It is open to them to accede to either Dominion then. Our assurance that we shall withdraw our troops from Kashmir as soon as peace and order are restored and leave the decision regarding the future of the State to the people of the State is not merely a pledge to your Government, but also to the people of Kashmir and to the world."

This was the promise of Mr. Nehru, Prime Minister of India.

Again, on 8 November, 1947, the Prime Minister of India, Mr. Nehru, in a telegram to the Prime Minister of Pakistan, declared :

"It will thus be seen that our proposals which we have repeatedly stated are : (1) that the Government of Pakistan should publicly undertake to do its utmost to compel the raiders to withdraw from Kashmir ; (2) that the Government of India should repeat its declaration that it will withdraw its troops from Kashmir soil as

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soon as raiders have withdrawn and law and order are restored : (3) that the Governments of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite in Kashmir at the earliest possible date.

"The above conclusions relate only to Kashmir, but it is essential, in order to restore good relations between the two Dominions, that there should be acceptance of principle that, where the ruler of a State does not belong to a community to which the majority of his subjects belong, and where the State has not acceded to that Dominion whose majority community is the same as the State's the question whether the State has finally acceded to one or other Dominion should be ascertained by reference to the will of the people."

These are, again. the words of Mr. Nehru, Prime Minister of India.

Ever since then, for these last eight years, this "reference to the people" has remained a mirage Law and order was established in the State several years ago. But that Indian undertaking subsequently reinforced by an international agreement, that the people of Kashmir shall be allowed to decide the question of accession by means of a free and fair plebiscite conducted under the auspices of the United Nations, remains unfulfilled.

On 1 November 1947, the Governor-General of Pakistan, Quaid-i-Azam Jinnah, sugessted that the Indian forces and the tribesmen should withdrawn from the State at once and than the Governors-General of Pakistan and India should arrange for a plebiscite under the joint supervision. These proposals were not accepted by India. This was the first attempt at a settlement of the dispute by direct negotiation in November 1947.

Eventually, on 1 January 1948, the Government of India took this dispute to the United Nations. On 16 January, Pakistan also filed a complaint with the Security Council. The Security Council is seized of both complaints.

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While the Council was endeavouring to bring about a settlement, the Government of India, disregarding the undertaking it had already given to this organ to do nothing that might aggravate the situation, launched a major offensive in the State in April 1948. The Indian intention obviously was to crush the forces of liberation and resistance within the State and to occupy it by force, thus presenting the world with a *fait accompli* as it had done in the case of Junagadh and as it subsequently did in the case of Hyderabad.

As the Indian offensive mounted, over 500,000 Muslims were driven out of Jammu and Kashmir to seek refuge in Pakistan. Pakistan's security being thus seriously threatened by advancing Indian forces, the Governmemt of Pakistan, in May 1948, was therefore compelled to move a limited number of troops into the State in order to hold certain defensive positions against the advancing Indian Army.

After hearing both Indian and Pakistan representatives, the Security Council came to the conclusion in April 1948 that the only just, peaceful and democratic solution of this dispute was to determine the accession of the State in accordance with the freely expressed will of the people. The Council appointed a Commission which was able eventually to bring about an agreement between Pakistan and India on the question of the accession of the State of Jammu and Kashmir. This international agreement is embodied in two of the Commission's resolutions dated 13 August 1948 and 5 January 1949.

The main provisions of this international agreement for a plebiscite are :

(1) Cease fire and demarcation of a cease-fire line ;

(2) Truce agreement providing, *inter alia*, for : (a) withdrawal of tribesmen and Pakistan nationals who had entered the State for the purpose of resisting the Indian advances; (b) withdrawal of Pakistan troops and the bulk of the Indian Army in a "synchronized" movement from Jammu and Kashmir ; on account of the difficulties created by India, this demilitarization has not taken place

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and the truce agreement has not been signed; (c) a plebiscite to be conducted, under the supervision and control of Plebiscite Administrator, empowered to determine the final disposal of the remaining forces in the State and vested will all the powers he considers necessary to ensure the freedom and impartiality of the plebiscite.

It will be noticed that under the resolutions of August 1948 and January 1949 demilitarization was to be carried out in two stages. The first is the truce stage when the Pakistan forces and the bulk of the Indian Army are to be withdrawn from the State in a synchronized movement. This would leave a small Indian force and the State armed forces included the State Army and Militia on the one side and the "Azad"—that is to say, free and not yet occupied by India—Kashmir forces on the other. The final disposal of these remaining forces is to be determined by the Plebiscite Administrator, having regard to the security of the State and the freedom of the plebiscite. The phrase "final disposal" has been correctly paraphrased by the Commission as removal, disbandment and location of forces.

The whole object of this international agreement is to create conditions which the people of Jammu and Kashmir would decide freely whether the State is to accede to India or to Pakistan.

The Security Council has throughout recognized that it is impossible to conduct a free poll in the presence of troops of interest parties. Similarly, it is regard as essential that the Plebiscite Adminstrator, who is responsible for the freedom and impartiality of the plebiscite, should have adequate powers to prevent the local authorities from coercing or influencing the vote in one direction or the other. These basic principles have been embodied in the international agreement.

Turning how to the implementation of the agreement the provision for a cease-fire and the demarcation of a cease-fire line has been carried out. Although the provision relating to the withdrawal of tribesmen and Pakistan volunteers was to be

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implemented only after the truce agreement had been signed, the Pakistan Government has secured the withdrawal of tribesmen and Pakistan nationals from Kashmir already.

A deadlock has ensured owing to the refusal of the Government of India to conclude truce agreement in accordance with the terms which that Government it self had accepted.

Since this is the central problem facing the Security Council, it is necessary to deal with it at some length. The Indian technique has been to pay lip service to India's obligations, but to refuse to carry them out by insisting on some new condition or raising irrelevant issues, or by putting impossible constructions on the words of the agreement. It will suffice to give one example of this technique. As already mentioned, the disposal of the "Azad" Kashmir—that is, the Free Kashmir—forces, along with the remaining Indian forces and State Army and Militia, is the responsibility of the Plebiscite Administrator. During the truce stage, the "Azad" Kashmir forces are to be left intact. This was fully known to the Government of India.

In the course of its discussions with the Governmeat of India in August 1948, the Commission pointed out that, according to the provisions of the Commission's resolution :

> " . . .limited Government of India forces would remain and that on the other side only the "Azad" forces would remain in their present positions". [S/1100, annex 12, p. 103.]

In its discussions with the Pakistan Government, also, the Commission took the same line, and in its letter of 19 September 1948 to the Minister for Foreign Affairs of Pakistan explicitly stated that : "the resolution does not contemplate the disarmament or disbanding of "Azad" Kashmir forces" [S/1100 paragraph 108, sub-paragraph 2, C].

Again, in the discussion which the Prime Minister of India had with the Commission in December 1948, before accepting the January 1949 resolution, he referred to the fact

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that the "Azad" Kashmir forces "ran into tens of thousands" [S/1196, annex 4, p. 38]. Thus, the Government of India was fully aware of the existence of the "Azad" Kashmir forces in such large numbers before it accepted the international agreement.

That the "Azad" Kashmir forces were not to be disbanded during the truce period, when the bulk of Indian forces had to be withdrawn, was explicitly recognized by the Government of India in the letter dated 18 February 1949 written to the Commission by the then Security-General of India, Sir Girja Shankar Bajpai. I quote the following passage from the letter :

> "The disarming of 'Azad' forces is really a matter of chronology. First, there must be a cease-fire and, after that, a truce, as envisaged in parts I and II of the Commission's resolution of 13 August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in the occupation of 'Azad' Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large-scale disarming of these forces has been carried out. We tried to make this clear to the Commission through Mr. Lozano in the course of our discussions last December, and I have emphasized this point in our recent meetings."

The position is also set out very clearly in a letter which the Commission wrote to the Government of India on 14 March 1949. I quote from that letter as follows :

> "In the course of the conversations last August, the Commission explained to the Government of Pakistan that in its view a 'military balance' would exist in the State of Jammu and Kashmir during the truce period in the sense and to the extent that the resolution of 13 August [1948] did not call for disarming or disbanding of the 'Azad' Kashmir forces, which the Commission

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understood to number approximately thirtyfive battalions."

Notwithstanding this clear and explicit understanding of the position, the Government of India went back on its pledged word and, in contravention of the August 1948 and January 1949 resolutions, accepted by India, made the withdrawal of the "bulk" of other forces conditional upon the disbandment and disarming of the "Azad" Kashmir forces. The Commission, after repeated efforts, came to the conclusion that :

> "India is not prepared to withdraw such part of her forces in Kashmir as might be characterized as the 'bulk', whether measured quantitatively or qualitatively, unless agreement with Pakistan on the large-scale disbanding and disarming of the 'Azad' forces is reached."

These Indian tactics of playing fast and loose with the international agreement and of interpreting that agreement arbitarily in India's own interest, contrary to what the Commission itself held to have been agreed to by the parties, finally compelled the Commission to suggest arbitration of the points of difference by Admiral Nimitz, who had been accepted as the Plebiscite Administrator by both India and Pakistan. This proposal was endorsed by President Truman and Mr. Attlee. Pakistan accepted it; India rejected it.

With a view to meeting this unreasonable demand of the Government of India, it was proposed—first by General McNaughton and later by Sir Owen Dixon and Mr. Graham—that the two stages of demilitarization be telescoped into one. Although the proposal was against the clear provisions of the international agreement, the Government of Pakistan, in its anxiety to go forward, accepted it. Since then, a number of proposals have been formulated to effect the demilitarization of the State. All of these proposals, without exception, have been accepted by the Government of Pakistan, and all of them—again without exception—have been rejected by the Government of India. What has held up the plebiscite has been the refusal of the Government of India to demilitariaze the State of

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Jammu and Kashmir as envisaged by the international agreement. Even a cursory appraisal of the facts will show who is responsible.

Eleven proposals for settling the differences were next put forward. Pakistan accepted each; India rejected every one. I shall refer to these proposals briefly.

(1) In March 1949, the United Nations Commission convened a joint Committee of the Indian and Pakistan representatives, at which it was agreed that both India and Pakistan would submit their plans for the withdrawal of forces to that Committee. Pakistan did so; India first asked for more time and later refused to honour this agreement.

(2) After many months of effort, the United Nations Commission came to the conclusion that India was not prepared to withdraw the bulk of its forces from Kashmir and was seeking to cover this refusal by misinterpreting the Commission's resolutions on the subject. The Commission, therefore, proposed that the differences arising from the interpretation of the two resolutions—which constitute the international agreement on Kashmir—should be submitted to the arbitration of Admiral Nimitz, the designated Plebiscite Administrator. This proposal was endorsed by a personal appeal from President Truman of the United States and Mr. Attlee, the then Prime Minister of the United Kingdom, in August 1949. Pakistan accepted this proposal; India rejected it.

(2) In December 1949, the President of the Security Council, General McNaughton, acting as the Council's mediator in this dispute, formulated certain proposals for the demilitarization of the State of Jammu and Kashmir. Pakistan accepted these proposals: India rejected them.

(4) The Security Council then appointed Sir Owen Dixon and authorized him, in March 1950, to bring about the demilitarization of the State within five months. He formulated his demilitarization proposals in July 1950 and discussed them with the Prime Ministers of India and Pakistan. Pakistan accepted those proposals; India rejected them.

(5) In January 1951, the Commonwealth Prime Ministers

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lent their good offices to bring about agreements for the removal or disbandment of troops necessary for the plebiscite to be free and impartial. They first proposed that the troops of both interested parties should be replaced by troops from New Zealand and Australia. Pakistan accepted this proposal; India rejected it.

(6) The Commonwealth Prime Ministers proposed in the alternative that the problem be resolved by the substitution of a joint force of Indian and Pakistan troops. Pakistan accepted this proposal; India rejected it.

(7) Another proposal put forward by the Commonwealth Prime Ministers was to substitute troops raised locally by the Plebiscite Administrator. Pakistan accepted this; India once more rejected it.

(8) In March 1951, Administrator Muniz of Brazil suggested that in order to resolve the deadlock, both India and Pakistan should agree to arbitration on all points of difference arising from the interpretation of the two United Nations Commission's resolutions of 13 August 1945 and 5 January 1949, which provide for the plebiscite. Pakistan accepted this proposal ; India rejected it.

(9) In March 1951, the Security Council in a resolution made a similar proposal, Pakistan accepted this resolution; India again rejected it.

(10) Subsequently, between March 1951 and December 1952, Mr. Frank P. Graham, the United Nations Representative, put forward a number of proposals on the subject of the demilitarization of the State of Jammu and Kashmir, and each one of these was accepted by Pakistan, but rejected by India.

(11) Finally, at its 611th meeting on 23 December 1952, the Security Council adopted a resolution urging :

> " . . .the Government of India and Pakistan to enter into immediate negotiations under the auspices of the United Nations Representative for India and Pakistan in order to reach agreement on the specific number of forces to remain on each side of the cease-fire line at the end of the

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period of demilitarization, this number to be between 3,000 and 6,000 armed forces remaining on the Pakistan side of the cease-fire line and between 12,000 and 18,000 armed forces remaining on the Indian side of the cease-fire line." [S/2883.]

The Government of Pakistan accepted this resolution; the Government of India rejected it.

Nevertheless, the United Nations Representative for India and Pakistan persisted in his efforts to secure the agreement of the Government of India to a reasonable plan of demilitarization of the State preparatory to the plebiscite. It was only when he failed to obtain an agreement in February 1953 that he recommended that the two Governments might try to resolve the potnts in dispute by means of direct negotiations.

The Government of Pakistan, consistent with its policy to uphold the prestige of the United Nations, accepted this suggestion of the United Nations Representative for India and Pakistan and intitiated direct negotiations with the Government of India at the Prime Ministers' level.

These negotiations took place in a series of meetings between the two Prime Ministers. The first was held in London in May 1953, and was followed by a meeting in Karachi in July. The third meeting took place in Delhi from 17 to 20 August 1953.

At the end of this meeting, a joint communique was issued by the Prime Ministers which, *inter alia*, contained the following with regard to a settlement of the Kashmir dispute :

(*a*) It was their—the Prime Ministers'—firm opinion that this dispute should be settled "in accordance with the wishes of the people of that State"—the State of Jammu and Kashmir—"with a view to promoting their well-being and causing the least disturbance to the life of the people of the State. The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite".

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(*b*) "The Plebiscite Administrator should be appointed by the end of April 1954."

(*c*) "Previous to that date the preliminary issues" that had held up progress towards a plebiscite so far "should be decided and action in implementation thereof should be taken", and with this object in view, "Committees of military and other experts should be appointed to advise the Prime Ministers".

(*d*) The Prime Ministers also felt that "progress can only be made in this direction if there is an atmosphere of peace and co-operation between the two countries". The Prime Ministers, therefore, "deprecated any propaganda or attack on one country by the other in the Press, by radio, or by speeches or statements made by responsible men and women of either country. The Prime Ministers attached the greatest importance to this friendly approach and to the avoidance of words and actions which promote discord between the two countries."

The joint *communique* of 20 August had envisaged the setting up of committees of experts of India and Pakistan to resolve certain preliminary issues, of which the main one was the question of the demilitarization of the State.

While negotiations were going on to pave the way for meetings of the committees of experts, wild rumours began to circulate in the Indian Press with regard to an impending military pact between Pakistan and the United States of America and the establishment of American bases in Pakistan. The Prime Minister of India seized upon these rumours to write to the Prime Minister of Pakistan, on 9 December 1953, that such a pact between Pakistan and the United States of America would be undesirable from the point of view of peace in Asia—it might even lead to the extension of the sphere of war—and it was highly likely to limit progressively the independence of the country receiving aid. He warned that such an expansion of Pakistan's war resources with the help of the United States of America could only be looked upon "as an unfriendly act in

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India". He further expressed the view that such a pact would inevitably affect the Kashmir issue and especially the question of demilitarization.

The committees of experts eventually met in Delhi from 21 December to 22 December 1953. The committees were able to cover considerable ground and also made some progress in the resolution of the main problems of the demilitarization of the State that had held up all progress so far.

Although the committees of experts had made some progess, they were not allowed to meet again. In spite of his best efforts to persuade the Prime Minister of India to go forward, the Prime Minister of Pakistan failed to move Pandit Nehru. Pakistan went to the extent of making a major concession in deference to Mr. Nehru's wishes in the matter of the selection of a new Plebiscite Administrator, in the hope that this would lead to a resumption of negotiations and the implementation of the joint communique, but Mr. Nehru later declined to carry out even his own proposal. Again and again he was reminded that the deadline for the appointment of the Plebiscite Administrator was fast approaching and that negotiations should be resumed to settle the preliminary issues, but to no effect.

The Government of India has put forward one pretext after another in an effort to justify its intransigent attitude. As the hollowness of one becomes apparent, another is thought up. I will refer now only to the lastest. The latest pretext is that the acceptance by Pakistan of American military aid absolves India from its obligation to Pakistan, to the people of Kashmir and to the Security Council to honour its agreement to co-operate in a free and impartial plebiscite. India has not publicly withdrawn this contention, not withstanding repeated assurances that any military aid may be and will be used exclusively for the purpose of self-defence.

A further pseudo-argument trotted out by India in its bid to stave off the plebiscite in Kashmir is that the plebiscite cannot be held because Pakistan has joined regional defence pacts. Both these matters—the receiving of foreign aid and the entering

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into defensive pacts—have no relevance whatsoever to the international agreement for a plebiscite in Kashmir.

Here I should like to say that if the objection of India to these pacts is genuine and India fears that Pakistan may attack India, then we make this offer to India to hold a plebiscite, and we will enter into a no war pact with India as soon as the plebiscite is held. I go further. The moment Mr. Nehru agrees to honour the pledges he has given to the Security Council, to the world and to the people of Kashmir, and holds a plebiscite, we are willing to enter into a pact which will say that an attack on India will be an attack on Pakistan. What more does India want by way of an assurance from us that our intentions are friendly ? We want to be friendly with the people of India, it is Mr. Nehru who has stood in the way of our two people being friends during the past eight year.

The relative strength of India and Pakistan within their own borders has nothing to do with the question of the demilitarization of the State of Jammu and Kashmir preparatory to the holding of the agreed plebiscite. India's position has no proper legal basis. It is a political weapon. In essence, India has been saying. "If you want us to fulfil our obligations under the international agreement, you must follow our policy as to defensive pacts."

The Indian Prime Minister and other Indian spokesmen have recently added a further argument based on recent developments brought about by India. Under the Indian Constitution, they say no decision concerning the disposition of the State of Jammu and Kashmir could be taken without the consent of the Government of that State—that is, Jammu and Kashmir. The argument assumes that the puppet regime set up by India is the Government of Kashmir and concludes that Kashmir has already consented to accede only to India.

The developments on which this argument is based are nothing but action taken unilaterally by Indian itself. They cannot alter the basic fact that India is committed under an international agreement to the proposition that the accession of Jammu and Kashmir will be decided by a free and impartial

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plebiscite. Nor can they possibly take away from the people of Kashmir their right to self-determination. It must be remembered that there are three parties to this agreement: Pakistan, the Security Council and India. Any unilateral action taken by India or by any subordinate body, like this puppet assembly in Kashmir, set up under Indian authority, cannot in the least alter the commitment India has freely made under an international agreement in regard to Kashmir.

So far as the accession to India by the puppet Constituent Assembly of the State is concerned, it is wholly devoid of any legal effect.

Further, any attempt to bring about accession except through the agreed plebiscite is a violation of India's commitment to the Security Council and contrary to the assurances given to this Council. When the idea of convening this Assembly was suggested, the Indian representative categorically assured the Security Council thal it was not meant—I now quote the undertaking he gave to this body—"to come in the way" of the Security Council and that while "the assembly"—that is, the Srinagar Assembly—"might express an opinion" on the question of accession, "it can take no decision on it" [533rd meeting].

The Security Council adopted a resolution on 30 March 1951, which, after reiterating that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations, affirmed—and I quote the Security Council resolution:

> "That the convening of a constituent Assembly as recommended by the General Council of the 'All Jammu and Kashmir National Conference', and any action that Assembly might attempt to take to determine the future shape and affiliations of the entire State or any part there of would not constitute a disposition of the State in accordance with the above principle." [S/2017/Rev. 1.]

Paragraph 8 of the same resolution called upon the

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Governments of India and Pakistan "to refrain from any action likely to prejudice a just and peaceful settlement". India's conduct constitutes a flagrant defiance of the United Nations Charter and of the Security Council. It is a relapse into the law of the jungle where force is the sole arbiter of all disputes.

Even if that Assembly were democratically elected, that election could not serve as a substitute for the agreed plebiscite. Let us, nevertheless, take a look at the character of that Assembly.

To start with, it obviously does not represent a large part of the State of Jammu and Kashmir, namely, the substantial State territory which is not under Indian occupation. But let that pass. What is the nature of the so-called constitution-making body ? It was to consist of seventy-five members representing Indian-occupied Kashmir. The polls were held while Indian troops were still in full control of the State. Under these circumstances, there was no question of any freedom of vote, and in fact there was no vote. All sections of the Kashmir population boycotted this election. The result was that no election at all took place. All the seventy five members nominated at India's behest were declared elected unopposed. To call such an Assembly representative of the people of Kashmir would be a mockery of democracy. To claim that it is competent to speak for the people of Kashmir and of decide the fate of that State is nothing short of being absurd.

However, even with an Assembly which consisted wholly of men nominated by India's agents, things did not proceed entirely according to plan. As time passed and the Indian designs with regard to the future of the State became clear, Sheikh Muhammad Abdullah, the State's Prime Minister, elected Prime Minister and leader of the House, began to get progressively disillusioned about the intentions of India.

As the Security Council is likely to hear a little more of Sheikh Muhammad Abdullah, I may as well inform it about his background.

Sheikh Muhammad Abdullah, popularly known as the

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"Lion of Kashmir", which honorific was awarded to him by on less a person than the Prime Minister of India, Mr. Nehru, and his own party, the Indian National Congress, was—I do not know of the state of Sheikh Abdullah's present relations with the Indian Prime Minister—a fast friend of Pandit Jawaharlal Nehru and a loyal disciple of Mahatma Gandhi. In the course of a colourfull career, Sheikh Muhammad Abdullah led a powerful freedom movement in the State of Jammu and Kashmir against the ruler of Kashmir and was, together with other partriots, sent to jail on a number of occasions. So there was no doubt about his being the leader of his people.

When the sub continent was in the grip of the turmoil of partition, Sheikh Muhammad Abdullah was in jail. He was released from jail by the Maharaja, at the instance of Pandit Nehru, his great friend, some time on 29 September 1947.

Soon thereafter, we find him being mentioned in the letter offering the accession of the State to India which the Maharaja sent to the Governor-General of India, Lord Mountbatten, from Jammu, on 26 October 1947. The Governor-General of India, accepting the accession, wrote to the Maharaja of Kashmir :

> "My Government and I"—his Government means Mr. Nehru's Government—"note with satisfaction that Your Highness has decided to invite Sheikh Abdullah to form an Interim Government to work with your Prime Minister."

At that time Sheikh Abdullah was very popular with Mr. Nehru.

In a broadcast from the All-India Radio on 2 November 1947, the Prime Minister of India, Mr. Nehru said :

> "We received urgent messages for aid not only from the Maharaja's Government but from the representative of the people, notably that great leader of Kashmir, Sheikh Abdullah, President of the National Conference".

Pandit Nehru continued :

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"Under inspiration of this great leader, Sheikh Muhammad Abdullah, people of the Valley, Muslims, Hindus and Sikhs, were together for the defence of their country against the invaders."

Sheikh Muhammad Abdullah was a full-fledged member of the first Indian delegation to the Security Council in January 1948, and made a fiery speech in support of India. He again appeared as a member of the Indian delegation in 1949.

As I was saying, this self-same Sheikh Muhammad Abdullah, the darling of the Indian National Congress, the friend of Pandit Nehru, the epitome, according to the Indian leaders and especially according to Pandit Jawaharlal Nehru, of all that was good and honest and decent in Kashmir, started condemning the attempts to force the State to accede wholly to India. In a public speech, he described, unfortunately for himself, the Indian argument for the full application of the Indian Constitution to Kashmir as "unrealistic, childish and savouring of lunacy". This was in April 1252.

By August 1953, the gulf between his and the Indian points of view on the question of accession had widened so much that it became dangerous to India's plans to let him stay at large. The Indian Press began vigorously to attack Sheikh Abdullah and openly to suggest that he needed rest. Accordingly on 9 August 1953, the man whom India had held up to the world as the true spokesman of the people of Kashmir was denounced, dismissed and clamped in jail.

In his place, Bakhshi Ghulam Muhammad was installed as Prime Minister with the help of the Indian Army of occupation. In due course Bakhshi Ghulam Muhammad fulfilled his part of the bargin. The so-called Constitutent Assembly passed a resolution in favour of accession to India. This is the true nature of the alleged accession decision which that Assembly adopted at India's dictation.

Before proceeding to the next point I should make mention of the fate of Sheikh Muhammad Abdullah. He is still resting in jail, without trial. This is what happens to Muslim

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friends of Mr. Nehru if they do not agree with him.

India has loudly maintained that things have settled down in Kashmir, that the people are reconciled to everything and that law and order prevail in the Indian-occupied areas of the State. The facts, however, are otherwise. If it is really satisfied with conditions in Kashmir why does it hesitate to hold a plebiscite ? The fact that it does not want a plebiscite shows a great weakness and the oppression under which these people are suffering today.

Since the arrest of Sheikh Muhammad Abdullah on 9 August 1953 and the assumption office by Bakshi Ghulam Muhammad, a reign of terror has prevailed in Indian-occupied Kashmir. Whoever tries openly to ask for a plebiscite to decide the question of accession, is accused of "treason and imprisoned. A large number of prominent Kashmir leaders have been arrested on this ground. Among them are Mirza Muhammad Afzal Beg, Mr. Ghulam Mohiuddin Karra, Pandit Prem Nath Bazar (a Hindu), Pir Maqbool Shah Gilani, Mr. Ghalam Ahmad Ashai, Mr. Sadruddin Mujahid, Pandit Raghunath Vishnavi (another Hindu), Soofi Mohammad Akbar, Abdui Ghani Goni and Mr. Ghulam Mohammad Dar. They have been detained without any trial.

Indian-occupied Kashmir today is virtually an armed camp. There are some 82,000 Indian soldiers in the territory. In other words, there is an Indian solider for every thirty-six persons in Indian-occpied territory. But if we leave women and children out of account it would appear that India has one soldier for every twelve unarmed, poverty-stricken and down-trodden adult males in Kashmir. There is, besides, the State Militia.

In this connexion I can do no better than to refer to extracts from letters addressed by Miss Mridula Sarabhi, a Hindu lady, to all members of the Indian Parliament. Miss Sarabhai is a well-known social worker in India, and is a personal friend of both Pandit Nehru and Sheikh Muhammad Abdullah as she was of the Late Mahatma Gandhi. I hope that the Security Council will take those letters as read and

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allow them to be printed along with the record; but if the President wishes I can read those letters.

The PRESIDENT : I suppose, to save time, the members of the Council have no objection to having those letters printed as part of the speech of the representative of Pakistan.

Since there is no objection, this will be done.

Mr. NOON (Pakistan) : There are also other documents published as annexes to my speech; perhaps they could be dealt with in the same way. There are letters from Sheikh Muhammad Abdullah and other documents. If members of the Council would kindly take them as read and have them printed, I will not take the time to read them here.

The PRESIDENT : If there is no objection on the part of the Council, the annexes will be printed as part of the speech of the representative of Pakistan.

Mr. NOON (Pakistan) : Despite this ruthless repression of civil liberties, the popular demand for a free and impartial plebiscite has intensified. In June 1955 an organization came into existence known as the Plebiscite Front. Its demand is that a free and impartial plebiscite should be held in the State. In less than a year, the organization has accepted great popularity and gathered widespread support.

The Kashmir Political Conferenee and the Kashmir Democratic Union together with the Kisan Mazdor Conference have also been working cease-lessly on the same lines as the Plebiscite Front. Besides these organizations in the State, the End Kashmir Dispute Committee with its headquarters in Delhi is agitating for an early plebiscite.

To meet this challenge to his authority Bakshi Ghulam Muhammad, at the behest of his Indian masters, has resorted to cajolery, bribery, blandishments and severe repressive measures. He has drafted large numbers of the Central Reserve Police from India into his service and has raised a body euphemistically called the "Peace Brigade" but which in reality consists of hired hooligans. They are stationed in every town and village of the Indian-occupied part of Kashmir. Their job is to

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harass and oppress those who challenge the finality of the so-called accession of the State to India. The methods used for such repressions are arrests, detentions and even torture of political workers, ban on their processions and meetings, house searches, denial of government employment and government contracts and business facilities. The order of the day is censorship of their mail, denial of radio facilities, imposition of various restrictions on their movements, and in extreme cases, even expulsion from the State. The result is that civil liberties are extinct and corruption and nepotism are rampant.

In spite of this repression, the urge for freedom is growing apace and the torch of liberty burns brighter every day. From all accounts, the people are ripe for a revolution, if the United Nations does not deliver them from the colonial domination of India.

This recital of events would show that all the processes for a peaceful settlement of the dispute laid down in Article 33 of the United Nations Charter, that is, direct parleys between the parties, mediation, conciliation and negotiations, have been exhausted without yielding any results and the Government of India has not been willing to resort to arbitration over the points in dispute.

The effect of Indian intransigence on the public opinion throughout Pakistan and particularly in "Azad" Kashmir and the tribal belt on the north-western frontier of Pakistan has been sharp and outspoken. The Kashmiri refugees in Pakistan—over half a million—went to launch a movement aimed at crossing the cease-fire line and a mass movement inside the State with a view to winning for Kashmiris their right to self-determination. The tribesmen are impatient to know what has happened to the assurances given by the Security Council for a plebiscite in Kashmir on the basis of which they withdrew from the State.

Lastly the people of Pakistan itself who have common religious, family and economic ties with the people of Kashmir cannot remain indifferent to the miserable plight of those who are groaning under an oppressive regime or of those who have been driven from their homes and have found refuge in

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Pakistan. Pakistan has no intention of being the aggressor; but that is no reason why India should take advantage of our patience and peaceful intentions and provoke us continuously and attempt progressively to absorb the State of Jammu and Kashmir and repudiate its international obligations and defy the United Nations. It is for this reason, in the interest of peace and in the hope of a just, peaceful and honourable settlement of all disputes once and for all that we have come to the United Nations.

Here I would like to say that it is sometimes argued by India that everything is peaceful, so why bother about Kashmir ? But I warn you, that is a calm before the storm. Everything is not peaceful. We have just seen a telegram which states that, on 11 January, our Minister for Information, Mr. Amir Azam Khan, made a statement in Karachi that the Indians have massed their troops on our border. The excuse that Mr. Nehru gives is that he fears an attack from Pakistan, whereas we have not sent one soldier to our border. The fact that he is afraid of a war breaking out because of the Kashmir problem should assure the Security Council and the world that it is peaceful on the surface, but if the Security Council closes the door on a peaceful settlement we cannot say what will happen. If the Indian troops are there because India fears war between India and Pakistan, that should be a sufficient answer to those people who say that "all is quiet in the Kingdom of Kashmir and India and Pakistan" and the Security Council need not take any action.

Please do not be misled by the fact that we are peaceful and that we want a peaceful solution. We are looking to the Security Council to do justice to these poor and poverty-stricken people of Kashmir to whom it has promised a free and fair plebiscite under the auspices of the Security Council, which plebiscite has been denied to them for the last eight years.

In view of this grave situation the Government of Pakistan requests the Security Council to take action on the following lines :

First, call upon India to refrain from accepting the change

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envisaged by the new constitution adopted by the so-called Constituent Assembly of Srinagar. If India gets away with this relaxation in spite of its agreement with and repeated assurances to the Council, I cannot say what future there will be in the world for the peaceful settlement of this dispute at the hands of the Security Council of the United Nations. You cannot allow one nation to defy and dishonour their own pledges given to the Security Council.

Secondly, under Article 37, paragraph 2 of the United Nations Charter, spell out the obligations of the parties, under the terms of the international agreement for a plebiscite as embodied in the United Nations resolutions.

The main problems in the way of the agreed plebiscite are : (*a*) withdrawal of forces from the State; and (*b*) the induction into office of a Plebiscite Administrator.

As the Government of India has repeatedly and consistently flouted all reasonable proposals formulated by the Security Council or by its mediators, there does not seem to be any particular need to go on temporizing with the question of demilitarization. It has already been accepted by the Security Council that the objective in Kashmir is the holding of a free and impartial plebiscite to be conducted under the control of the United Nations. It has also been agreed by the parties and by the Security Council that demilitarization is an essential prerequisite of a free and impartial plebiscite.

In view of this, the Security Council should call upon the parties to withdraw all their troops from the State and should also ensure that the local forces which should be placed under the representative of the Security Council and left behind, are suitably reduced, if not disbanded altogether. The functions of protecting the State and ensuring internal security should be entrusted by the Council to a United Nations Force which should be introduced into the area at once. Let all other forces—Indian, Pakistani and local—be disbanded and non-Kashmiri nationals even in the police forces be removed from the State of Kashmir. It is further requested that an early and firm date be fixed for the induction into office of the Plebiscite Adminis-

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trator. The situation may be saved even at this late stage-but only by these means. The most important of all is to take immediate steps to prevent India from taking the bit into its mouth and defying this august body.

I am most grateful to the Security Council for giving me a patient hearing. Before I close, however, I would like to make a few submissions in regard generally to Pakistan's positions vis a vis this dispute.

Pakistan stands firmly by the international agreement for a plebiscite and is most willing and indeed anxious to implement all its obligations under the terms of that agreement. I want it to be clearly understood that the affiliation of the geographical entity known as the State of Jammu and Kashmir has not so far been determined. The question of drawing any demarcation line within the State dividing Pakistan from India does not, therefore, arise.

Pakistan is equally convinced that the international agreement for a plebiscite is one indivisible whole. No party to the dispute has the right to accept it in part. If India, a party to the dispute, makes and attempt to freeze the situation as it exists, Pakistan would consider it as a repudation of the international agreement, and I hope that the Security Council would also. I want to make it clear that Pakistan recognizes no international obligations with regard to the state of Jammu and Kashmir except those it has voluntarily accepted together with the Government of India in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949.

There can be no true peace in the sub-continent until the Kashmir dispute is resolved by the free choice of the people of Kashmir. A solution imposed by India could not bring even the appearance of peace. Such a solution would be the exact opposite of the peace with justice to which the United Nations and you, gentlemen, are dedicated.

The world has had brought forcibly and tragically before it the consequences of past temporizing when Members of the

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United Nations have failed to comply with the decisions of the Security Council of the General Assembly. The world has also had a recent encouraging example of the respect that the Member States have won for themselves and for the United Nations by insisting that the decisions of the United Nations be complied with by great nations as well as by small ones.

The world has had the further example of great nations bringing honour to themselves by complying with the decisions of the United Nations, so example which we sincerely hope that India, as a civilized country, will also follow.

With these examples fresh in our minds, Pakistan is encouraged to believe that the Security Council will now deal resolutely with the Kashmir dispute and will see to it that its decisions are carried out promptly and in good spirit. Pakistan believes further that the parties to the dispute, aware as they are of the importance of setting a good example, will comply with these dicisions.

149. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 762 held on 23 January 1957.*

The Government of India has given consideration to the statement made by the Foreign Minister of Pakistan before the Security Council on 16 January (*761st meeting*), that is, a statement coming from a neighbouring country with which it is our desire to establish, maintain and continue the most intimate friendship, and made by a person who has been associated with the service of India for well over a generation and who today occupies a place of prominence in his Government.

Before I deal with the subject that is before us, I again like to make this preliminary observation. Yesterday in India, India and Pakistan signed a trade agreement. If this were merely a trade agreement for the exchange of commodities, as might happen, between any peoples it would not be of any importance. This, like as many other agreements reached between our two countries, which marks a further step forward

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in the effort, in justice, to get over the difficulties which have arison from time to time, touches not the feelings as much as the standards of living of our people on each other. With that background I will endeavour, therefore, not to introduce invective or anything irrelevant to the subject before us or which would in any way swim against the current of co-operation and fraternity between our two countries.

The present consideration of this matter arises from a letter dated 2 January 1957 from the Minister for Foreign Affairs of Pakistan to the President of the Security Council [S/3767]. It is important for me to mention this because, as I develop the position on behalf of the Government of India. It will be obvious to the Security Council that in this matter it is necessary to place developments, phases, incidents and events in their right perspective. It is not possible to understand a problem, especially a complex problem which has engaged, in the first instance, the attention of the two countries, and the attention of other parties, including the Security Council, over the years—to which I shall refer later—without having the whole picture so that the significance of documents, arrangements and declarations can become realistic and true to fact.

The statement made in this Council by the representative of Pakistan on 16 January began, it is true, with a brief mention of the partition of India. It then went on to the position that India accepted "a spurious offer of accession" of the State of Kashmir, and it would appear that what was sought to be conveyed was that we are here in regard to a dispute about territory.

Mr. President, I believe that you and all but one or two members of the Security Council are newcomers to this subject. It is quite true that it is not individuals but States that represent Governments here. And even with regard to States, apart from the five permanent members of the Security Council, most of them, if not all of them, are newcomers to this subject. I have the duty to the Security Council and to my Government, as well as to the cause of international peace and security, to present this problem, even at the risk of trying the Council's patience with detail, in such a way as to enable the picture to be true to fact.

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It will be recalled that the last time the Security Council considered this matter was on 23 December 1952, which is more than four years ago, a fact which is not without significance because, at a later stage in his remarks, the representative of Pakistan attempted to convey to the Council the feeling that there was a crisis developing in this matter. I shall refer to that factor in a moment.

It was the Government of India that came here in the first instance. The Government of India came here on 1 January 1948. It is not usual for a Government of average ability and intelligence, as mine is, to come before the Security Council and to invite its attention to the wrongs it has done. In this particular case it has done nothing wrong, and in any case the matter is clear in itself.

Therefore, I shall now refer to documents S/1100, anex 28, page 139, contained in the Supplement for November 1948 of the Official Records of the Security Council. The original text is in English, and it is dated 1 January 1948. I hope the Secretary-General will bear with me when I say that it is essential for us to quote these documents, with all the details, because, at variance with the practice of the General Asseembly, the Security Council's documents require considerable research if you wish to find some particular point in them. There is no volume of resolutions on this subject; you have to search for the resolutions and put them together. That may be a good thing, because one learns more about them. I should like to read the beginning and the end of this :

> "Under Article 35 of the Charter of the United Nations" —which means that we did not come here with a request for drastic action as we were entitled to do— "any Member may bring any situation"—and I emphasize this word "situation", for we did not bring a dispute but a situation—"whose continuance is likely to endanger the maintenance of international peace and security to the attention of the Security Council. Such a situation now exists between India and Pakistan..." [S/1100, annex 28, para. 1].

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We felt; as indeed my predecessor in this chair pointed out to the Council at that time, that there is no dispute about territory. I say with great respect that the Security Council would be incompetent to deal with it because that would be either a political or a juridical question, and under Chapter VI or Chapter VII of the Charter the Security Council would only deal with questions of international peace and security. So we brought here a situation and not a dispute.

But that is not the most important part. We went on to say :

> "The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance,"—immediately, on 1 January 1948, and today we are nine years away from it—"which is an act of aggression against India" [*Ibid.*].

I shall quote these words more than once before I have concluded, in order to discharge my responsibility as the representative of my Government : "—which is an act of aggression against India". That is the crux of this question. What we are considering here is not merely various resolutions or the method by which a problem may be resolved otherwise. What is before us, as I shall point out later, is this question of aggression, because the whole United Nations is founded upon the basic principles of international law and behaviour. That is based upon equity, and he who asks for equity must come with clean hands.

Therefore, our starting point is that we came here in order to file a complaint, to ask for redress on a charge of aggression. If Pakistan does not mention this starting point, then we have to point out why we were so concerned about it. After all, there are difficulties sometimes. Even today we have frontier raids one way or another. But why did we then ask the Security Council to deal with this matter? If Pakistan does not do so, that is to say, halt the aggression, the Government of India may be compelled in self-defence—and interpolate that self-defence is not only a right of the Member

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States of the United Nations but, I submit, it is an obligation that Member States have under the Charter because they have an obligation to maintain the sovereignties of their own countries—the Government of India may be compelled in self-defence to enter Pakistan territory, which we did not do, in order to take militaray action against the invaders. The matter is, therefore, one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace.

As the delineation of this picture becomes more complete it will be clear that the efforts of India and of the Security Council and the approaches made to Pakistan by mediators and so on have at earlier stages been primarily addressed to the halting hostilities.

Therefore, our country was faced with the position that part of its territory was invaded, and that invasion had to be resisted; it had to be pushed back. The normal practice of war would have been to defend by attacking the invader. But this was in 1947, and it was a fact, which remains true to us at any rate today, that these were the same people who were part of our country but ten years ago. What is more, between January 1947, when we came here, and October, when these things started, our two countries had only just passed through the holocaust of fractricide, that is, of Indian people killing Pakistanis, and Pakistanis killing Indians. We had witnessed an orgy of violence, and it was the desire of our Government that nothing should be done to rekindle these embers which were still burning at that time.

That was the original position, and I shall keep coming back to it. We are here on a complaint of aggression. That aggression has not been resolved; it has not been got rid of. So long as there are forces of other countries in a place where they have no right to be, irrespective of our rights, I think the Security Council is called upon under the provisions of the Charter to act accordingly.

In this context, so many trees have grown, and a very considerable amount of undergrowth, that it is impossible to

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see the wood properly, and it will be my attempt to present it as best we can. We shall try to assist the Security Council to see this picture as it was. As I said, five years ago we debated this, and in five years—even apart from the nine years—a great many things happen. It is part of the inevitable practice of nations that the changes in conditions that time brings about and which may go to the root of a question have also to be taken into account.

From there, with great respect to my colleague, the Foreign Minister of Pakistan. I shall follow his example of looking at this problem from the time of the partition of India.

India became an independent country on 15 August 1947. We are not concerned here with the political issues but with the constitutional and other issues relevant to this problem. The independence of India was attained by an act of the United Kingdom Parliament. The Indian Independence Act of 1947 is that Act, and at later stages we shall draw attention to the causes relevant to these matters. On 18 July 1947 the United Kingdom Parliament passed the Indian Independence Act whereby India was created as a self-governing dominion and as a successor State to British India. Popularly, we speak about the British Parliament partitioning the country in two; constitutionally that is not correct.

What happened was that British India obtained independence. India, under the British Crown, obtained independence and in that process Parliament constituted certain territories—on which we had agreed politically before hand—into another dominion. Therefore, as regards our State, for example, in the United Nations, we did not have to be admitted anew. We came here as a successor State to the India that signed the Covenant of the League of Nations, that signed the Treaty of Versailles, and which also went to San Francisco to help in establishing this Organization at which time my distinguished colleague from Pakistan was one of the representatives. So India became the successor State by this Act of 1947. The 1935 Act, that is to say, the Government of India Act the British Parliament passed in 1935 and which became effective somewhere around 1937, became the Constitution Act. It was

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amended by us in order to deal with certain anomalies, such as the reference to the Crown as the Viceroy, and so on. Such various amendments were made during that period. That is the Constitution Act. Now this Act—and it is important to remember it—deals with the Federation of India.

British dominion in India or British suzerainty in India consisted of the over-lordship of what is now called by that very ugly word, the sub-continent, that is, the Indian peninsula. That territory consisted of two political groups; one was the British provinces directly ruled under the ultimate direction of the Secretary of State from London; and the other was the Indian states. So far as I recollect, there were 562 of them when we obtained independence. Therefore, the problem arose as to what was to be done with the states, because the states were not directly ruled; they were indirectly ruled.

The British Government, with the wisdom which is often not credited to it but which in fact exists, had foreseen that India was likely to become independent. Therefore, as early as the third decade of this century they had tried to define the relations between the British Crown and these states by what is called a doctrine of paramountcy. It is necessary, for purposes of the record and for any future troubles that may arise —not in this particular—issue—to state that we do not necessarily accept everything that everybody says about the doctrine of paramountcy. It does not appear anywhere else in international law.

Roughly speaking, for this purpose, the doctrine of paramountcy is this : that when we speak of the relations between the Indian States—and here again let me emphasize that when the British speak about the relations between the Indian States or we speak about constitutional law—it is the relations between the Crown and the head of the State, becausee all treaties were between the Crown and the Princes. There were no treaties ratified by any parliaments or legislatures. Therefore, it is argued that the relationships were established on account of the treaties, which are really a kind of charters between the British Crown and the Princes. And the British Government of the day, the Viceroy of the day, argued that this established

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a privity between them, a privity of contract, a privity of relationship between them, and expounded for the first time, in 1926, this doctrine of paramountcy.

Under the doctrine of paramountcy, when India gained independence the British Government proposed that the Crown should withdraw. The Crown was withdrawing from the peninsula. The Crown was withdrawing from effective control of British India. And that is a point which I particularly would like the representative of the United Kingdom to take special note of.

Why were these changes necessary in the relations between the Princes and the Crown? Because the Crown was going on a legal theory fixed in a two-fold way, through the Viceroy on the one hand and the Governor-General on the other. It was the fact that he had the Indian Army, it was the fact that he had Indian revenue, it was the fact that he had Indian police, it was the fact that he had the Indian customs organization which enabled him to arrange the relations with the States.

Some gentlemen around this table are well aware, in constitutional practice, of the difference between status and fuuction. Functionally, therefore, it was the British Government of British India that maintained these relations. It is quite true that there was a constitutional aspect. Therefore, for the purpose of the record we want to read into it that whatever remains in us, in the British Government, by virtue of this function, remains in the Government of India by virtue of its succession. Therefore, the doctrine of paramountcy is limited by this phraseology.

In order that there may be further support for this argument. I wish to draw the attention of the Council, and particularly the representative of the United Kingdom, to the fact that a distinguished jurist who was Viceroy of India in this period when these changes were dreamed of in 1926, told the Princes that they no sovereignty and that they had no independence at any time. There is a classsic phrase which says: "Over and above all treaty obligations are certain rights that rest in the Government." Therefore at no time, as has been

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brought in so many times, even by us, the independence of the Indian States was not the kind of sovereign independence that would enable them to become Members of the United Nations. It is quite true, as it is said in the Cabinet Mission's Memorandum, that they were competent to discuss some other political relationship other than accession; that is possible. But they would not have been independent, like Colombia, or Cuba, or France or any of the countries around here, because they had no international status. The British Government, or any Government in the world, cannot just make a country like that. Independence rests upon function, upon territory, upon the capacity to exercise sovereign rights and, what is more, upon the recognition of the world. Therefore, when we speak about the three alternatives, this has to be borne in mind.

My Government, in view of the complications that arise in these matters, is anxious that this should be on the record somewhere, even though it might not have an immediate bearing on what you are going to consider. The Mission of the British Cabinet was in India in 1946, and on 12 May 1946 it issued a statement in the form of a memorandum. The memorandum to which I have just referred appears in our annex IV as document No. 1. For the convenience of the Council, my delegation has prepared these documents for the purpose of ready reference. I shall, at some stage, ask for these documents to be circulated as United Nations documents. I believe we are entitled to ask that. But, for the purpose of reference, the President has a copy, and copies have also been given to the other members of the Council.

150. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 762 held on 23 January 1957.*

May I state my position on this question ? It would be a great embarrassment to me if these documents were made part of my statement because as I have already said, the statement would then be unreadable. The purpose of these documents in our view—although we may be wrong—is to assist the Council to appreciate what I am, in a muddled way, trying to talk

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about. These documents are not available—some of them are not even available in the United Nations library—but they are documents in which the words have very specific meanings. I do not even ask that they should be annexed to my statement. If my delegation circulates them they will have no more value than newspaper cuttings. I want just to place them above that so that they are authenticated documents. That is all I am asking.

It will be seen that in our annex IV, at the end of document No. 1—which, for convenience, we have handed to the President and his colleagues in the Council—the position is briefly set out. I do not want to take up the time of the Council by reading out the whole of this document, but it says in part :

> "This means that the rights of the States"—and the important word is "rights"—"which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States". (S/PV.762/Add.1, annex IV, document No. 1.)

That is one statement. The reference is to rights; there is no reference to the other relationships that have been created, and it will be seen that this is referred to in the British Prime Minister's statement in Parliament, because, over and above rights, there are functional relationships set up. Paragraph 5 of the document goes on to say :

> "Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them". [Ibid.]

Now this is the basis to which my colleague has referred as being the relationship between the States and India in the

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future. And, therefore, when the British withdrew from India the "Pax Britannica", of which we had heard a great deal, became limited by this fact. This new State that had been set up had to weave the threads of unity afterwards. The greater part of the States were in geographical and other contiguity to India, and therefore, both in the British House of Commons and in the Chamber of Princes—which then was the organization for consultation between the mission and the Princes, and of which my colleague sitting behind me was at that time the Chancellor—the representative of the Crown, the Viceroy of India. made his announcement as to what all this meant.

There is a statement of what Lord Mountbatten actually did say which appears in Mr. Noon's statement, and we want to deal with that. It says :

> "The Viceroy and Governor-General, Lord Mountbatten, who represented the suzerain—the King of the United Kingdom and Emperor of India—however, advised the Princes of India on 25 July 1947 that in deciding the question of accession, they must pay due regard to the communal composition, the wishes of their peoples and the geographical location of their States". (761st meeting para. 13.)

I am not willing to rely on my memory in regard to this carefully considered document. We have done all the research we can; we are familiar with the subject. There is no such statement of that character. What is more, the statement does not refer to communal representation. What it says in effect is this :

> "You people are now free to join either Dominion, or you can be even, in a sense, independent, but of course you cannot evade geography; you cannot evade all that has happened in the past. So you people have to make up your mind".

This is the statement of 25 July 1947 by Lord Mountbatten in the Chamber of Princes (S/PV.762/Add.1, annex IV, document No. 2) :

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"It was necessary to set up two State Departments... But when I say that they are at liberty to link up with either of the Dominions, may I point out that there are certain geographical compulsions which cannot be evaded. Out of something like 565 States, the vast majority are irretrievably linked geographically with the Dominion of India. The problem therefore is of far greater magnitude with the Dominion of India than it is with Pakistan. In the case of Pakistan the States, although important, are not so numerous, and Mr. Jinnah, the future Governor-General of Pakistan, is prepared to negotiate the case of each State separately and individually."

The rest of it refers to our internal arrangements. The Viceroy went on to say that, in order that there might be a smooth passage-over, he was arranging to have a clause inserted in the Independence Act is regard to internal arrangements.

Further in the document it is stated :

"Let us turn for one moment to the Cabinet Mission Plan of 16 May 1946. In this Plan the proposal was that the States should surrender to the Central Government three subjects—Defence, External Affairs and Communications. That was a plan which, to the best of my belief, every Ruler and every State accepted as reasonable, fair and just."

But the key phrase in his statement in this :

"You cannot run away from the Dominion Government which is your neighbour any more than you can run away from the subjects for whose welfare you are responsible. Whatever may be your decision, I hope you feel that I have at least done my duty by the States".

I have spent some time on this statement because there is reference here to a distinguished national of the United King-

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dom who performed such great services to both our countries and to the Commonwealth and to whom we referred as the Representative of the Suzerain of India at that time, and it is essential that there should be no mistake in this matter. Lord Mountbatten did not at that time—nor did the British Parliament at any time in regard to the States—ever refer to communal representation, by which, in India, is meant the grouping of Hindus and Moslems. There was no such reference, and it was not the idea at that time that the States should be referred to in that way in any of these documents.

But then the other document on which my distinguished colleague relies is the document of 3 June 1947, which is a statement by Mr. Attlee, then Prime Minister of the United Kingdom, in the British Parliament on the transfer of power. I will not labour the Council by reading this document, but it will be found that this document definitely says that this is concerned exclusively with British India. This is what the Minister for Foreign Affairs of Pakistan says :

> "The basis of partition of the British Empire in India"—if by that is meant British India plus the States—"as set forth in the statement of the then Prime Minister of the United Kingdom on 3 June 1947 was that Pakistan would be constituted by the contiguous Muslim-majority areas in the north-west and north-east of the sub-continent, and India would comprise contiguous non-Muslim-majority areas. It was thus universally assumed that, following the basis adopted for partition, Princely States with a Muslim majority in population contiguous to Pakistan would accede to Pakistan". (761st meeting, paras. 14 and 15.)

There is nothing like this in the 3 June document. What is more, it makes a special reservation to say that this does not concern the Indian States, but is exclusively concerned with British India. And it is not splitting hairs on this matter, because he was trying to explain the basis on which the grouping of territories in the partition had taken place. This is merely an explanation of that character. It is explained in paragraph 18 of Mr. Attlee's statement :

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"His Majesty's Government wish to make it clear that the decisions announced above relate only to British India and that their policy towards Indian States contained in the Cabinet Mission Memorandum of 12th May 1946 remains unchanged". (S/PV.762/Add.1, annex VIII.)

Therefore, I submit that this 3 June document has nothing to do with this matter, and I have said that, because there is some irrelevancy as to such claims as Pakistan puts forward for Kashmir.

Now it will be seen from that, while these territories were enabled to be independent, as I have said before, there were a large number of practical arrangements between these various areas. There are 565 States scattered all over India from north to south and east to west. A great many of them are islands. A great many of them are territories which were separated by bits of British Indian territory. There were questions of communications, questions of customs, questions of postal arrangements and various other matters; and over and above those, there was the question of defence. I shall not read out that part; but it will be noted that the Viceroy refers to this question as follows: You Princes cannot defend yourselves; you have to be in a larger grouping. That is the only way to do it.

In the statement made later in the British Parliament by the Prime Minister, he referred to the fact that arrangements should be made to carry on in the intervening period. That was at the time when the British were still ruling India and when we had not been partitioned de jure. The Viceroy and Governor-General was still the head of the Government and, at that time, prior to the partition, these arrangements were being carried on, and it was suggested that a standstill arrangement should be made by the two States with whoever they wanted to function.

Therefore, the first part is contained in Section 7 of the Indian Independence Act of 1947, which says :

"His Majesty's Government in the United Kingdom have

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no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India;

"The suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between his Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise..."

Therefore, there was a void which had to be filled and that is done by a proviso :

"Provided that, notwithstanding anything in paragraph (b) or paragraph (c)"—which I have just read—"of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements."

This is the period between 18 July, when this Act was passed, and 15 August, when we became independent, and 14 August, when they became independent. (We are the younger State by six hours.)

Arising from this, standstill agreements, as they were

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called, were formulated. The purpose of the standstill agreements was to carry on business in the way indicated here, and, so far as we were concerned, that included the matter of the security of the country, because, as I have said there were areas interspersed all over. They were on our coasts, and they were very vulnerable in the post-war era. Therefore, the two Dominions had to make their own arrangements in this connexion, as the Viceroy had pointed out. Mr. Jinnah, who afterwards became Governor-General of Pakistan, was to negotiate with these States separately.

Sir Zafrullah Khan, who represented Pakistan in the Security Council meeting on 16 January 1948, referred to these agreements, so far as they were concerned with Pakistan, and pointed out what they actually meant. He said :

> "In any case, he"—the Maharaja—"had entered into a standstill agreement with Pakistan. It is necessary to explain what a 'standstill agreement' is. India, being one political entity before the division on 15 August 1947, had a common system of defence, of railways, post offices, telegraphs. telephones, and a host of other matter. If on 15 August, when at least a nominal division took place between these two Dominions -in some places, the actual division also took place on that date—all these matters had to be adjusted, the situation would have been impossible. A new currency could not be started merely by a stroke of the pen..." [228th meeting, p.66.]

Sir Zafrullah Khan went on to say :

> "Each State would come to a standstill agreement with the Dominion of India or the Dominion of Pakistan, according to its own situation and requirements, providing that these matters—mainly communications, and so on—should continue to run on the old basis." [Ibid., pp. 66 and 67].

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There was a further statement by Sir Zafrullah Khan. At the Security Council meeting on the next day he said :

> "I explained yesterday to the Security Council what the standstill agreements mean. Kashmir had arrived at a standstill agreement with Pakistan with regard to her communications, supplies, and post office and telegraphic arrangements". [229th meeting, p. 101].

I want the Security Council to take note of this last part, it was with regard to communications, supplies, and post office and telegraphic arrangements, and nothing else. Sir Zafrullah Khan went on to say : "This agreement became operative on 15 August".

The history of the standstill is contained in the telegrams exchanged between the Prime Minister of Jammu and Kashmir on the one hand and the Prime Minister of Pakistan on the other, and there was a similar series of telegrams between the responsible Minister in New Delhi and the Prime Minister of Jammu and Kashmir.

As a result of the telegrams that passed between the Prime Minister of Pakistan and the Prime Minister of Kashmir, a standstill agreement was arrived at. The contents of that agreement have been submitted to this Council by no less an authority than Sir Zafrullah Khan, who was Foreign Minister of Pakistan at that time. It must be stated there were no signatures on these, because they were agreed between the Governments by means of telegrams.

So far as the Government of India is concerned, on the same date an identical telegram was sent to the Government of India. The telegram from the Prime Minister of Jammu and Kashmir to the Government of India stated :

> "Jammu and Kashmir Government would welcome standstill agreements with Union of India on all matters on which these exist at the present moment with outgoing British Indian Government. It is suggested that existing arrangements should continue pending settlement of details and formal execution of fresh agreements."

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It may be said here that the "existing arrangements" comprised the use of Indian forces if there was internal rebellion in one of the States. That had been practised for a long time, but it is not necessary for me to bring thatuot.

The Government of India telegraphed back :

> "Government of India would be glad if you or some other Minister duly authorized in this behalf could fly Delhi for negotiating standstill agreement between Kashmir Government and Indian Dominion. Early action desirable to maintain intact existing agreements and administrative arrangements."

Before the Prime Minister could come to discuss these matters, Kashmir was invaded. Therefare, the standstill agreements which they were trying simultaneously to conclude with the two countries were interrupted, not by the action of the Government of Kashmir or by the Government of India, but by the active aggression complained of. Therefore, it was not possible for the standstill agreement contemplated to go on, and other developments followed.

There is only one matter to which I wish to refer. We propose to put in, for the reference of the Security Council, the standstill agreement used by the Government of India with regard to all the Dominions and States. This document is important, because we did not cook it up for Kashmir. It is a standard document, and every one of the 500-odd people with standstill agreements had to sign it. There are no other agreements and, therefore, if Kashmir had concluded an agreement with us, the purpose of it would have been as contained in this document. I will not read the text, since it would take too long, but the schedule of this document is important and the standard form was different from the substance given of it by Sir Zafrullah Khan.

I am pointing out the difference between the stand-still agreement of India and the standstill agreement of Pakistan. The schedule included air communications, arms and equip-

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ment, control of commodities, currency and coinage, customs, Indian States' forces; external affairs, extradition, import and export control, irrigation and electric power, motor vehicles, national highways, opium, posts and telegraphs and telephones, railways, salt, central excises, relief from double income tax and other arrangements relating to taxation, etc. All these subjects are contained in the schedule of the standstill agreement. Therefore, if there had been no interruption by invasion, it is normal to conclude that a standstill agreement would have been concluded and that that standstill agreement would have included external affairs, control of State forces and of other matters which spring from the sovereignty of a country.

I should like to say that there is nothing inconsistent in a State concluding a standstill agreement with two different countries, especially a State of this kind, where there were railway communications and postal communications with Pakistan. That is why Sir Zafrullah Khan, with great accuracy, pointed out what they had, and this is what we would have had, because this is a pattern which is not altered; but at that time the invasion of Kashmir began.

There is a telegram No. 1, the chronology of which is important. I have already referred to the telegrams sent in connexion with this matter by the Prime Minister of Kashmir to the Government of India. The representatives will note that the date of this telegram is 12 August 1947. On 16 August, only four days later, the Government of Pakistan telegraphed that it had agreed to a standstill agreement and a few days later the Chief of Staff of the Jammu and Kashmir forces, Major-General Scott, a British officer, submitted his first report to his Government, the Kashmir Government which still had not acceded to anybody, on the border raids from Pakistan. That does not mean there had been no raids before. All of us know especially, now with all our discussions about United Nations forces, that it takes some time for this sort of thing to travel. Anyway, on 31 August, 1947, the Chief of Staff of the Jammu and Kashmir Army submitted a report to his Government on border raids from Pakistan. So the in-

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vasion had begun. That was what prevented the officials of the Kashmir Government coming over to India at that time.

On 4 September, on the basis of a telegraphic report submitted by its Chief of Staff, Major-General Scott, the Kashmir Government protested by telegram to the West Punjab Government against armed Muslims from Rawalpindi district infiltrating into the State. Protests were also made to the Deputy Commissioner. Two days later there was a marked increase in this activity.

On 6 September a patrol visited Alibeg, twelve miles west of Bhimbar and Major-General Lovett, commanding the Seventh Infantry Division—that is to say, presumably of the Pakistan forces—was informed. On 13 September, a Pakistan Army patrol visited Alibeg and Jatlai, fourteen miles west of Bhimbar, both in the State territory. They are all contained in the diary kept by General Scott.

On 17 September—we are now only one month from independence—a hand of 400 armed raiders, twelve miles southeast of Ranbirsinghpura drove away herds of cattle belonging to State nationals.

On 18 September, railway service between Sialkot and Jammu was suspended by Pakistan authorities without any reason and in contravention of the standstill agreement. So if there was an agreement it was broken by the conduct of the Pakistan Government on 18 September—and this action is not isolated. Armed gangs entered Kashmir in Palandri (Poonch), across the State border. By 18 September the invasion had gained momentum.

On 28 September hundreds of armed men with service rifles, automatics and spears attacked a Kashmir State patrol near Chak Harka. On 30 September hundreds of armed Pathans entered Dhirkot Than inside the State territory.

On 3 October, the Jammu and Kashmir Government protested telegraphically to Pakistan against hundreds of armed people from Murree Hills in Pakistan operating in Poonch—part of which is now occupied by Pakistan, part of which is in the other side; it also protested against the essential

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supplies, including petrol, rice, salt and cloth, being withheld. That is the second violation of the standstill agreement.

On 4 October armed men renewed their activities in the Chirala area and near the Jhelum river and fighting between the raiders and the State forces began. Now we have reached a state of war.

On 10 October two sections of the Pakistan Army followed by an armed gang attacked Pansar village in Jammu. I submit with great respect and a sense of responsibility that what I have now read out is one of the key points in the consideration of the whole of this question—that is to say, Pakistan informed us that they were not involved in this matter. They said they were trying to stop them. The Security Council asked them not to get involved and not to do anything. Even as early as 10 October, long before the Indian forces had been there, Pakistan had invaded the State of Kashmir. How does it become important ? Because irrespective of whatever claims, whatever relations, whatever titles the Indian Government may have on Kashmir, Pakistan certainly had no rights because it had no accession, no relationships of any kind. At best it was foreign territory. It was an act of aggression.

So on 10 October 1947 the invasion began. And here the diary says that two sections of the Pakistan Army followed by an armed gang attacked the village. And this item appeared in the Pakistan papers :

> "The North-West Frontier Province Premier is reported to have annouced that fire-arms would be distributed among the people liberally so that all except the 'enemies of Pakistan' can have them." [S/PV. 762/Add. 1, annex 1, No. 12].

A very familiar sound.

On 13 October 1947 the following was stated in a newspaper :

> "Pakistan has cut off from Kashmir supplied of petrol,

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sugar, salt and kerosene oil, although a standstill agreement between them has been signed." [*Ibid.*, No. 13].

Norman Cliff, who was the correspondent of the London "News Chronicle", not an Indian paper from Kashmir, published this news, in that newspaper.

On 15 October the Maharaja appealed to the British Prime Minister, probably by force of habit, because that was the practice in the past days. The Kashmir Government cabled to the British Prime Minister about the economic blockade of the State by Pakistan and the beginning of the invasion from Pakistan in Poonch. He goes on to say :

> "People all along the border have been licensed and armed with modern weapons under the pretext of general policy which does not appear to have been followed in the case of internal districts of West Punjab···Whereas military escorts are made available for several other purposes, none is provided for safe transit of petrol and other essentials of life. Protests merely elicit promises which are never implemented. As a result of obvious connivance of the Pakistan Government, the whole of the border from Gurdaspur side up to Gilgit is threatened with invasion which has actually begun in Poonch." [*Ibid.*, No. 14].

that is to say, away from the western border, the western district towards the south of the State right up to the mountain area on the frontiers of Sin Kiang, the Soviet Union and other countries.

Some days later, on 22 October, the Jammu and Kashmir Prime Minister telegraphed the Prime Minister of the North-West Frontier Province—that is, a province of Pakistan—and the Deputy Commissioner of Rawalpindi, both in west Pakistan, about people armed with modern weapons infiltrating from Hazara and Rawalpindi districtsi in west Pakistan into the State and asked them to stop the infiltration. The inva-

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ders continued their progress along the Jhelum Valley road towards Srinagar. (Srinagar is the summer capital of Kashmir, founded about 2,300 years ago by the great Emperor Asoka). Their triumphant march was temporarily stemmed at Uri, a town fifty miles from Srinagar, by the demilition of a bridge and the gallant resistance of about 150 men under the command of a Brigadier of the Kashmir Army who was killed fighting a memorable last-ditch battle. The raiders managed to construct a division about a mile long, requiring considerable engineering skill, since, according to "Dawn" of Karachi of 7 December 1947, it was completed in two days—that is to say, in this invasion the Pakistan sappers or engineer regiments —their REME—must have participated. It was not possible for them to do otherwise. A fact will be noticed here to which I will refer later. These men were resisted only by the national militia, by the local populations. They were not welcomed as liberators. They fought a last-ditch battle; they resisted these people. That was on 22 October.

On 24 October the Maharaja, who is the head of the State, appealed to India for military help—and it makes no difference in this particular matter whether the Maharaja is constitutional or unconstitutional, whether you like his face or you do not like it or what is the nature of his domestic life; that does not come into it. Here is a question of State theory. He is the head of the State and, according to the Constitution, the only person competent to sign an accession; nodody else can do it.

May I halt here for a moment. Until now no one from India, neither Army, nor ministers, nor anyone, has gone into Kashmir to persuade the Maharaja. No police have been sent. We did not put any pressure on him; in fact, if I may interpolate, in a previous period Lord Mountbatten, on behalf of the Government of India, told the Maharaja of Kashmir, "You will accede to Pakistan if you wish and we will not take it as an unfriendly act" because the Government of India at that time was concerned about not having these States suspended in a vacuum, being the centres of trouble and difficulty, especially a frontier area. If they had acceded in the normal way, we would have accepted it, as indeed we accepted the sorry

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partition to which we subscribe and which we have no desire to undo. The Maharaja appealed to India.

On 25 October Lord Mountbatten attended the Defence Committee at which General Lockhart, the Commander-in-Chief in India, read out a telegram from the headquarters of the Pakistan Army—and this is of importance to my colleagues of Australia and the United Kingdom—stating that some 5,000 tribesmen had attacked and captured Muzaffarabad and Domel and that considerable tribal reinforcements could be expected. Reports showed that they were already little more than thirty-five miles from Srinagar. It was quite normal for those two British officers to exchange telegrams, especially at that time; Pakistan had not acknowledged its invasion. Obviously the Commander-in-Chief and British officers were working outside the policy region.

On 26 October 1947 the Maharaja asked for protection—I shall deal with that latter when we come to the question of accession—and he offered accession to India.

This is the position up to 26 October and I will deal with the document regarding accession to India of Kashmir and the surrounding States later, but it is necessary for me to dwell at some length on the history of this period, between that time and the cease-fire. If the members of the Security Council will look at the pages of document No. 1 [S/PV.762/Add.1, annex 1], they will see what happened in Kashmir. It is stated in No. 20 :

> "...It is a fact that several top-ranking British officers serving in Pakistan did have an inkling of these preparations and plans, though I do not suggest that they took any hand in their execution.
>
> "We came to know latter"—that is the Government of India came to know later—"that, as soon as the June 3rd plan was announced, Kashmir became the subject of attention and study in certain military circles. Why was there a demand on the Survey of India for so large a number of maps of Kashmir?"—that is, from our Ordi-

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nance Department in Delhi? "What was the mysterious 'Operation Gulmarg', copies of orders in respect of which fell into the hands of those who were not meant to receive them?"

This was because the Government of India also had an intelligence service. The document goes on to say :

"...the appearance at the psychological time of Jinnah's private secretary at Srinagar, the presence of Jinnah himself at Lahore, cannot be ascribed entirely to coincidence..."

On 28 October 1947 it is recorded in a diary written at the time :

"In the middle of today's Defence Committee, Auchinleck rang up Mountbatten"—Auchinleck was a British Field-Marshal and Supreme Commander of Armed Forces in charge of the partition of personnel and physical assets of these forces—"from Lahore to say that he had succeeded in persuading Jinnah to cancel orders given the previous night for Pakistan troops to be moved into Kashmir". [S/PV.762/Add.1, annex I, No.21].

I have read this in order to convince the Council that as early as 28 October 1947 the invasion by Pakistan, by a State and not by irregulars, not by a lot of hooligans, but under the command of the Governor-General, had already taken place. The Pakistan Commander-in-Chief was a British officer at that time who, in the absence of General Masservy, telephoned the Military Secretary of the Governor of the West Punjab, with whom Jinnah was staying. General Douglas Gracey replied that he was not prepared to issue any such instructions without the approval of the Supreme Commander; that is to say, in those transitory stages it was not quite clear—in fact Pakistan voiced and published a complaint that Gracey had no business to disobey these commands. He was under the command of Auchinleck.

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> "At Gracey's urgent request, Auchinleck flew to Lahore this morning and explained to Jinnah that an act of invasion would involve automatically and immediately the withdrawal of every British officer serving with the newly formed Pakistan Army" [Ibid.]

I would like to say that in all these matters, the British officers who served with our Army and, so far as we know; the bulk if not the whole of the British officers serving with the Pakistan Army, remained aloof from the lethal operations.

An order given by Mohammed Ali Jinnah in 1947 for Pakistan troops to launch an attack on the province of Jammu was ignored by General Douglas Gracey, who was then acting as Commander-in-Chief of the Pakistan Army. This was revealed on 20 March 1956 at a meeting of the Kashmir Liberation Conference held in Dacca under the auspices of the All-Pakistan Millat-e-Islam Convention by ex-Major-General Akbar Khan of the Pakistan Army. This is the ex-Major-General Akbar Khan who afterwards appeared on the Kashmir scene under the name of General Tariq or something of that kind, who later was charged by the Pakistan Government with the offence of treason, or something like that—I forget what it was—and went to prison. Major-Genreal Akbar Khan said that General Gracey thus jeopardized the chance then available of liberating Kashmir. This was the view of the senior Pakistan officer at that time: that the British Commander-in-Chief, by refusing to carry out these orders, had thrown away the chance of liberating Kashmir.

Mr. Jinnah gave his order after a conference held on 27 October 1947 at Lahore with Pakistan Army chiefs. General Gracey said that before launching the attack he would confer with Field-Marshal Auchinleck, who was then responsible for superintending the partition of the old Indian army and the transfer of troops from it to the new Indian and Pakistani armies. Mr. Akbar Khan said that Mr. Jinnah's directive was correct and wise; tnat General Gracey's insistence on conferring with Field-Marshal Auchinleck was unjustified because Auchinleck was not in any way concerned with the

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operations of the Pakistan Army—and there is something to be said for Mr. Akbar Khan's arguments. He then described the acceptance of the United Nations cease-fire order in Kashmir and Jammu as inopportune. Instead, Pakistan should have accepted the United Nations mediation in 1948 when the District of Poonch was under the control of the "Azad" Kashmir Government.

During this period, Various acts of brigandage. of rapine and plunder took place, and if I had the time I would go into this at great length. But what is the political importance of this ? The political importance is that if the Kashmir territory were aligned with Pakistan by kinship, by links of blood, race or religion, that was a strange way of showing that friendship—by invading its country; and the rapine and plunder of the raiding forces continued up to Baramula, which is only a few miles from Srinagar. The town was sacked and burned. In spite of the risk that I may take of prolonging this statement, it is necessary at least to look into some parts of this situation.

In his budget speech to the Legislative Assembly of the Frontier Province on 7 March 1949, Premier Abdul Qayyum Khan advocated a special grant for the tribesmen and Justified an allotment in these words:

> "The House will recall with pride the fact that in our greatest hour of danger the Masuds responded to our call by rushing to the rescue of the oppressed Muslims of Jammu and Kashmir State." [*Ibid.*, *No. 22.*]

I know of rule of international 'aw which confers upon a State the right to go and protect someone else in another State, even if he is oppressed. If that were the case, no State would be stable.

On 31 October 1947 the Prime of India telegraphed to the Prime Minister of Pakistan :

> "...Raiders from the Frontier province or along the Murree road come from Pakistan territory and it is the

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easiest thing in the would to stop them at the two bridges which connect Pakistan territory to Kashmir".

We did not blow up those bridges because at that time we were very careful not to go any where near Pakistan territory.

"They were not so prevented" says Pandit Nehru "and their equipment arms including artillery and automatic weapons bear witness to every help being given to them. We are credibly informed that regular officers of the Pakistan Army are advising the raiders." [*Ibid*, *No.23.*]

The Minister of Health in Sind, another province of Pakistan, at that time appealed to all trained and demobilized soldiers to proceed volunteers to the Kashmir front.

The Prime Minister stated that there could be no doubt whatsover that all these invaders had come across from Pakistan territory. He said:

"We have a right to ask the Pakistan Government how and why these people could come across the Frontier Province or West Punjab, and how they have been armed so effectively. Is this not a violation of International Law and an unfriendly act towards a neighbour country?"

At least on this point, the United Nations Representative found that it was a violation of international law. The Prime Minister continued :

"Is the Pakistan Governmant too weak to prevent armies marching across its territory to invade another country, or is it willing that this should hapten ? There is no third alternative." [*Ibid.*, *No. 24*].

Now comes perhaps the most important evidence of the direct implication of Pakistan in this raid. While this was

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going on, the Government of India was still trying to settle matters and attempting not to have a repetition of what had happened in the previous months in the north-west of India and the north-east of Pakistan. It is to that the telegrams mentioned by the Foreign Minister of Pakistan refer and to which I shall come in a moment.

Mr. Jinnah invited the Prime Minister to go to Lahore, but he was unable to go owing to ill health. However, the Governor-General went, and what happened? At that time discussions took place and it was said that both sides should call off their troops; that is to say, the Indian Army should be withdrawn and the raiders, as they were then called, should also leave. But the Pakistan side, represented by Mr. Jinnah, had all along been saying: "We really cannot do anything about these people. They are co-religionists. How can we stop them?" Therefore, either the Pakistan Government had no control over them, or they were abetting them, or there was a combination of both. Mr. Jinnah, therefore, proposed that both sides should be withdrawn. Lord Mountbatten asked the common-sense question of how Mr. Jinnah could be responsible for withdrawing the tribesmen if he had no control over them, to which Mr. Jinnah replied: "If you do this I will call the whole thing off."

Independent evidence has been offered by London newspapers which in no way could be regarded as being disposed too favourably towards India in these matters at that time. Alan Moorehead, correspondent of the London "Obeserver" in Pakistan, wrote as follows: "The Pakistanis look on this as a holy Muslim War." I read that deliberately, because that is the position even today. This afternoon when we go into these questions we shall be able to cite evidence that that is the position, that is to say, that India is threatened by a campaign of hatred and preparation for an aggression against its territory. We shall not fire a shot and we shall not allow a soldier to leave our borders, but just the same as anyone else we shall discharge our duty of self-defence. The correspondent wrote: "They look on this as a holy Muslim War. Some of them I have seen talk wildly of going to Delhi." Alan Moorehead

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motored to Peshawar and the Khyber Pass from where this crusade began. He wrote : "Everywhere recruiting is going on··· This is happening not only in the tribal territory···but inside Pakistan itself" [*Ibid.*, No. 24]. That was at the end of October and the beginning of November 1947.

There is also photographic evidence. An Associated Press photographer, presumably an American, flew over a section of Kashmir and said that he saw more than twenty villages inflames. The villages, in an area ten miles long and ten miles wide, apparently had been set fire to by the Muslim invaders who were scouring the valley and moving in the direction of Srinagar.

In a report in the "New York Times" by Robert Trumbull, dated 10 November 1947, we read the following :

> "Baramula, India, 10th November—The city had been stripped of its wealth and young women before the tribesmen fled in terror atmid night. Friday, before the advancing Indian Army. Surviving residents that 3,000 of their fellow townsmen, including four Europeans and a retired British Army Officer, known only as Colonel Dykes, and his pregnant wife, were slain. When the raiders rushed into town 26th October, witnesses said : 'One party of Masud tribesmen immediately scaled the walls of Saint Joseph's Franciscan Convent compound, and stormed the Convent Hospital and the little church. Four nuns and Colonel Dykes and his wife were shot immediately. The raiders' greed triumphed over their blood lust.' A former town official said : 'The raiders forced 350 local Hindus into a house, with the intention of burning it down. The group of 100 raiders is said to be holding another five, as hostages, on a high mountain, barely visible from the town. Today, twenty-four hours after the Indian Army entered Baramula, only 1,000 were left of a normal population of about 14,000.' " [*Ibid.*, No. 26].

Here again is another account concerning Father Shanks, who was one of the Christian missionaries working in the area.

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It is a story that Father Shanks would never tell. He describes the attack on the Convent without mentioning his own name, as follows :

> "The tribesmen—great, wild, black beasts they were—came shooting their way down from the hills on both sides of the town.
>
> "They climbed over the hospital walls from all sides. The first group burst into a ward firing at the patients.
>
> "A 20-year old Indian nurse, Philomena, tried to protect a Moslem patient whose baby had just been born. She was shot dead first. The patient was next.
>
> "Mother Superior Aldetrude rushed into the ward, knelt over Philomena and was at once attacked and robbed. The Assistant Mother, Teresalina, saw a tribesman point a rifle at Mother Aldetrude and jumped in front of her. A bullet went through Teresalina's heart.
>
> "At that moment Colonel Dykes, who had assured us we would not be attacked, raced from his room a few yards along the terrace to get the Mother Superior out of danger, shouting at the tribesmen as he ran. But the Mother Superior fell shot, and Colonel Dykes collapsed beside her with a bullet in the stomach.
>
> "Mrs. Dykes ran from her husband's room to help him. She too was shot dead.
>
> "While this went on Mr. Gee Boretto, an Anglo-Indian, was killed in the garden before nine nuns. Then the nuns were lined up before a firing squad.
>
> "As the tribesmen raised their rifles a young Afridi Officer, who once studied in a Convent school at Peshawar, rushed in and stopped them."—At least there are living features of human quality in these incidents.—

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"He had been told his men were raiding a Convent, and had run all the way from the town. That saved all our lives by a few seconds.

"We did not find Mrs. Dykes until the following day. She had been thrown down a well." [*Ibid.*, No. 27].

We have another report, as follows :

"A Pakistan Army convoy was sent to rescue us. On the way from Baramula we stopped at the village of Boniyar to seek the staff of the World Wide Evangelistic Crusade Mission" [*Ibid.*].

Then we have the following report :

"In Baramula the towns people told me of a young Muslim shopkeeper who had sacrificed his life rather than recant in his creed of religious tolerance. His martyrdom had taken place almost under the shadow of the convent walls, and in the memory of the devoted Kashmiris he was fast assuming the stature of a saint.

"He—Mir Maqbool Sherwani—must have been a sort of Robin Hood character, from the stories the towns—people told me, championing peasants who could not pay their exorbitant taxes, pitching into the police when he found them beating up some luckless victim, bolstering up the resistance of the people against their many oppres ions.

"When the tribesmen invaded Kashmir and terrorized the countryside, Sherwani, who knew every footpath in the Valley, began working behind the lines, keeping up the morale of the besieged villages, urging them to resist and to stick together regardless of whether they were Hindus, Sikhs, or Muslims, assuring them that help from the Indian Army and People's Militia was on the way. Three times by skilfully planted rumours he decoyed

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bands of tribesmen and got them surrounded and captured by the Indian infantry. But the fourth time he was captured himself." [*Ibid.*].

On 22 December 1947, in Delhi, the Prime Minister of India handed over to the Prime Minister of Pakistan a letter requesting the Government of Pakistan to deny to raiders (1) all access and use of Pakistan territory for operation against Kashmir, (2) all military and other supplies, and (3) all other kinds of aid that might tend to prolong the struggle.

I should like to draw the attention of the Council to that date : namely 22 December 1947. We waited one week before coming here. Our complaint was the same, that is that our country had been invaded. What was our request ? This is what should be taken into account when there is an adjustment of values in the minds of members. Our territory had been invaded and the army was in a hopeless position, having been sent to Kashmir on less than twenty-four hours notice. I shall later disprove, if it is necessary, that there was any preparation on the Indian side. We have documents signed of their own will by the British Commander-in-Chief, the British Air-Marshal of the Indian army at that time, that the matter was never even broached by anyone before the question of defence arose.

I shall now state briefly what I fear I shall have to say again later. In this context, if any other country, any other people—and it is not surprising that we did because we were the same people—had been faced with a situation of this kind, would it not have been answered by an ultimatum of war on their territory? We accepted at face value the statements made that these were marauders.

The Security Council, even though it has sat on this for over nine years, cannot forget the facts of history and its obligations to the Charter. We made this moderate request for not giving this aid. I am sure that everyone around the Security Council table would say that a country so invaded has the right under normal practice to say. "We shall retaliate and we shall not withdraw until such and such a time". This

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was merely a request from one friendly Government to another, proving that we were not in a state of war even then.

Nothing happened after eight days. We would not have come here if any improvement had taken place. On 1 January 1948, India complained to the Security Council under Article 35 of the Charter. Even then we did not come here with the idea of using international forces to restrain, or impose economic sanctions, or remove Pakistan from its seat in the Assembly, or anything of that kind. We came here to complain to the Security Council under Article 35 of the Charter, requesting that the Government of Pakistan be asked to prevent tribal and Pakistan nationals from taking part in the fighting in the State of Jammu and Kashmir and to deny to the raiders access to and use of its territory in operations against Kashmir, military and other supplies, and all other kinds of aid that might tend to prolong the fighting in Kashmir.

Are these the words either of a belligerent Government or of a Government with expansionist ideas, with the desire to follow its neighbour—as often pointed out a neighbour far stronger than we are militarily today? Is this the language they would use ?

We came here asking the Security Council to do these things, and it was a modest request. That is still what is pending before the Security Council. The issue that is pending before the Council is one that its members dare to evade only if they are prepared to defy the Charter. Everything else that has gone afterwards makes no difference. I go so far as to say that it makes no difference even if for argument's sake it is said that we were guilty of evasions after this incident, because international law is based upon equity. Anyone who comes here must come with clean hands, and I submit that our hands were clean.

What is more, we did not use our strong arm even at that time. We came here with a limited purpose. It may well be that, if we had forced that position at that time and not relied upon the processes that followed afterwards, perhaps this matter would have been resolved long ago and, what is

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more, we would not have been given the material for the kind of ill-informed adverse propaganda that goes on everywhere. We would not have sown the seeds of doubt in the minds of people sitting around this table.

Therefore, I repeat this point, to which we shall come back again and again, that it must be planted firmly in your minds that the issue is aggression. The issue is invasion; it is a violation of territory. It is not necessary for me to prove the unquestioned sovereignty of India in regard to Kashmir. It is sufficient for me to prove that we were in possession—even, if you like, in a state of temporary possession—but I am not going to concede that. I want it to be shown on the record that I am not going to concede that, because we have suffered often here by accepting a hypothetical proposition and by saying, "Let us assume this for argument's sake", or saying, "If A, B, C and D", happened, then we will do D". Then we Discuss D, everybody forgets A, B and C, and we are committed to course D. Therefore, I urge the Council to be extremely careful.

However, suppose, for example, that that was the position. I ask my South American friends to think of the doctrine on which their countries are based. We were in possession legally and in fact. They were invaders, and they had no standing in international law or international practice or according to the Charter, other than as wanton, naked aggressors into the territory of India.

While we made this complaint and it was being considered, what happend ? I have not the records here, but I am sure the Secretariat will inform us that the Pakistan Government certainly must have not notice before 11 January, for ten days is a long time. On 11 January, the Foreign Minister of Pakistan, Sir Zafrullah Khan, who is now a judge of the International Court of Justice—a jurist of standing—informed the Reuters correspondent that it was impossible for Pakistan to guarantee that no Pakistan nationals or other people passing through Pakistan should not go to Kashmir and "participate in the struggle for freedom". That is to say, we were two sister States brought together under the struggle of

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partition and with feelings of understanding. We agreed to the partition of India as the price of our freedom and also in order to save much bloodshed. Having done that, we came under the same act of the British Parliament. Here in one part of the country is this rapine going on, and that is called a struggle for freedom. I say with great respect to them—and I do not want to be misunderstood—that we in India, I think, know something of the struggle for freedom that made the independence of Pakistan possible.

Now we turn to the most respectable of the journals of the world, that is, the London "Times". On 13 January 1948, that is, twelve days after we came here, it stated :

> "That Pakistan is unofficially involved in aiding the raiders is certain. Your correspondent has firsthand evidence that arms, ammunition and supplies are being made available to the 'Azad' Kashmir forces." [S/PV. 762/Add.1, annex I, No. 31.].

Here may I interpolate that my Government uses the words "Azad Kashmir" without accepting the connotation of the word "Azad". Although "Azad" means "free", we do not accept the term as meaning free Kashmir forces. They are enslaved Kashmir forces or whatever they are. But we have to use the language as it is given, and it should be understood that we do not regard it in its literal sense.

The "Times" went on to say that a few Pakistani officers were also helping to direct their operation and that, however much the Pakistan Government might disavow intervention, moral and material support was certainly forthcoming.

Both in the municipal laws of many countries and in international law, aiding and obetting either before or after the fact is participation in the act itself. Let us assume for a moment that the units of the Pakistan Army were not operating, which we are not prepared to admit. The reason, of course, is that our army officers and their army officers were brother officers. They had met them in Kashmir. They knew them by their first names. They had all worked together in the

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same regiments before being divided by the partition. We do not want any documentation of this. Let us assume that there was not participation of the regular army, as it was suggested that there could not be. According to this "Times" correspondent, if there was no intervention, there was moral and material support. If the correspondent of the "Times" or of any other newspaper suggested this is an article in this way, that would not be sufficient for the conduct of affairs of nations, but it is the start of a whole series of incidents. Certainly it comes from a source that was not biassed in our favour.

Now we come to the stage before the Security Council We came here with a request that the aggression must be halted. If the Security Council were to tell us that in that letter we did not ask for more drastic action, that we did not ask for condemnation, that we did not ask for Pakistan to be declared an aggressor, we plead guilty. We plead guilty in the sense that we were not prepared and we had no intention at that time, nor have we now, to aggravate the situation. What we wanted was the undoing of the wrong rather than finding fault with somebody. That is why in that letter, which is phrased in language that is not the language of war, we are simply asking from people who are committing rapine and murder to remove the weapons and not to let them go on with it. That is all we wanted.

Therefore, if the Security Council takes the view that generosity and moderation in these matters, and not asking for the extreme remedy, is a misdemeanor, then I am afraid we must plead guilty, but I hope that the time will not come when the United Nations takes that view.

So we came here on 1 January. On 15 January, the Pakistan Government "emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India". This is the letter dated 15 January 1941 from the Minister for Foreign Affairs of Pakistan addressed to the Secretary-General of the United Nations [S/1100, annex 6]. I do not know whether the Security

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Council wants me to read the whole of it, but this is an official letter submitted as truth to the Security Council. And what does it says? It says :

> "Pakistan Government emphatically deny that they are giving aid and assistance to the so called invaders or have committed any act of aggression against India" [*Ibid.*, document I, para 3].

There are three statements there to which I would request the Security Council to address itself. One is the denial of giving aid and assistance, and the other is that they do not regard the so-called invaders, the rapine in Kashmir, as invasion of territory which is beyond their border. The third statement is that they plead not guilty to aggression. Either they deny the fact or they deny that indirect assistance is not aggression. In either case, I say that it is a serious violation of all canons of international behaviour.

The latter goes on to say :

> "On the contrary and solely with the object of maintaining friendly relations between the two dominions the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war." [*Ibid*].

That is to say, not only did they deny it, but they came and told the Security Council that they were taking deterrent action to prevent it. I ask any member of the Security Council to tell me whether, even assuming that they were exclusively border raiders, whether it was possible for their army to march across long distances over Pakistan territory, whether they could get fuel anywhere, especially at that time, and where these trucks and this machinery came from, and where the officers came from, and where the weapons came from.

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If it is true that Pakistan could not stop the raiders from going across their country, by what right does this Member State come and say here "we shall take Kashmir under our protection", if they cannot prevent libertines and marauders fr-m walking across their country and making themselves free with the resources that are there? And if a Pakistan Government were to tell us that they cannot stop a belligerent force from marching across that territory, by what right then can that Member State say that they are competent to take anybody over? That means it is not a State: it is a territory over which anarchy prevails, if that is true.

But I submit that it is not true. The Pakistan Government at that time had an Army which was in no way inferior to the Indian Army. It was part of the Indian Army. They had the division of the forces, according to their size, and no so on, as decided by the British Government and the two States. They had all the material. What is more, what was required here was not militant action, but its denial.

Can anyone tell the Security Council that the march of people across long distances over Pakistan territory could not have been stopped by an organized Government? But if that is true alone, it would not be as strong as it is and as condemnatory as it is. But side by side with it stand all the statements I read out to you, where these Ministers call upon person after person, and they call them heroes; they call it liberation; they ask people to give assistance; they ask for volunteers; they ask for funds. The Prime Minister of the Punjab, afterwards accused in certain financial matters, said that he spent this money on Kashmir. And not without evidence—there is.

Then in a subsequent part of the letter, the following is said [S/1100, annex 6, document III, para. 23]:

> "The Governor-General of Pakistan"—that is Mohammad Ali Jinnah, the founder of Pakistan—"explained that he had no control over the forces of the 'Azad' Kashmir Government or the independent tribesmen engaged in the fighting..."

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This is the same Mr. Jinnah who was asked by Lord Mountbatten : "How can you be responsible for these people?" Then he said, "I will call the whole thing off". I will tell the Council in what context later.

The United Nations Commission for India and Pakistan in its first Interim Report says :

> "Another element, the significance of which had not been fully appreciated before the Commission's departure from the sub-continent, was the 'Azad' Movement which constitutes an organized political and military body, is assisted by the Pakistan High Command, and is engaged in active revolt against the existing Government. This Movement has cooperated since October 1947 with invading tribesmen and individual Pakistani nationals." [S/1100, para. 125].

I submit that if I did not say anything else, and only read out this paragraph where the United Nations Commission reports that the "Azad" Movement was an organized political and military body which has cooperated with invading tribesmen and individual Pakistan nationals and has been assisted by the Pakistan High Command and has engaged in active revolt against the existing Government, with which the Pakistan Government has co-operated since October 1947, (before the complaint came here) but which it has denied—that one statement alone, coming from United Nations sources founded on fact, not on opinion but on fact, would, in my submission, be adequate to prove the charge of aggression.

In view of the composition of the Security Council, I will ask the members to look at some evidence that comes from American sources.

Russel K. Haight Jr., a former American soldier who served for two months in the "Azad" Kashmir Army, gave a secret interview to "The New York Times" correspondent, Robert Trumbull, in Lahore and stated that Pakistan had provided petrol. The following is the report ;

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"Mr. Haight also found Pakistan Army personnel running the 'Azad' Kashmir radio station, relaying messages through their own Pakistan Army receivers"—I repeat, "relaying messages through their own Pakistan Army receivers"—"organizing and managing 'Azad' encampments in Pakistan, and supplying uniforms, food, arms and ammunition which, he understood, came from Pakistan Army stores through such subterfuges as the 'loss' of ammunition shipments...Mr. Haight characterized the 'Azad' Kashmir Provisional Government, headed by Sardar Mohammad Ibrahim Khan as 'Pakistan puppets'. He also deeply implicated high Pakistan Government officials, notably the Premier of the North-West Frontier Province." [S/PV. 762/Add. 1, annex, 1, No. 33.].

This is from "The New York Times" of 29 January 1948, and it is also quoted by Lord Birdwood who has written a book on Kashmir, again not a friendly book to India. Those are the facts.

The next authority probably will be regarded as sympathetic to India, although many things have been written. Therefore, I will not read it. However, the representative of Australia would be interested to know what was said in the Australasian Continent about this. I do not have an Australian extract here, I could find many. But there is "Kashmir and the United Nations" by "Criticus" in the New Zealand Labour Party's weekly "The Standard" (Wellington) and it was published in India. It was carried on 28 November 1951 in "The Standard". It reads :

"...thousands of Muslim tribesmen equipped with arms by the Pakistan Government invaded Kashmir. This was obviously an act of open aggression". *Ibid.*, No. 34.).

I think it will be admitted that Lord Birdwood, with his background as a Field Marshal acquainted with India, had contact with the British officials and Pakistan, and this is what he says ;

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"At GHQ in Rawalpindi"—that is the main army headquarters of Pakistan, as far as I know—"in so far as they were prepared to discuss the matter, I was assured that no regular unit was moved before May" —That is, May of 1948—"Yet a battery of mountain guns with an infantry escort were in action in an unsuccessful attack on Poonch on 17th March, while on the Indian side General Russell believed that regular (Pakistan) troops were involved in January." (General Russell was a British officer serving in the Indian Army.) "He accordingly asked to be relieved of his command..." [*Ibid.*, No. 35].

We readily agreed because we did not want British officers to fight British officers on the other side, and we did not want to involve the United Kingdom in any trouble between Pakistan and ourselves. Although General Russell was a very loyal and an extremely able officer, he asked to be relieved the moment he knew the Pakistan Army was in action. And what did the Government of India do? We would have been entitled—and I ask the representative of the United Kingdom to bear with me—to tell this man, "You have signed an agreement with the Indian Army, and this is ordinary military duty". We did not do anything of the kind. We relieved him, and we asked General Cariappa, as Commander-in-Chief, to take over. And General Cariappa, when the British Government left, was a brigadier. It was not as though we had ready-made officers to deal with these matters.

The statements adds that General Cariappa was convinced that at this stage Pakistan was using regular forces. General Cariappa, by the way, was an army officer who recently retired, and who must be very familiar to my Australian colleague, since he was High Commissioner for two or three years afterwards. General Cariappa, the statement says, based his opinion on the fact that a number of prisoners of regular units had been taken. Now it cannot be said that the Pakistan Army sent a few persons to be taken prisoner for no reason.

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General Cariappa faced his Pakistan friends with the charge—and anyone who knows General Cariappa would understand how he does this. The statement adds :

> "This he was able to do since an invitation to the Pakistan Armoured Corps 'Week' in Lahore camp through to him from his old friend, Major-General Iftikar, who was then commanding the 10th Pakistan Division in Lahore." [*Ibid.*].

All these men had been brother officers in the same Army only a few days before.

Now this is the position. I should like to stop there so far as the invasion is concerned, and to come back to the political aspect. On 1 January we made our complaint. I read out the Council a while ago what Sir Zafrullah Khan said on the 11th. I read out all the denials between that date and Pakistan's reply. Nine years ago, on 1 January, we made this complaint, and I read out what the complaint was. On 17 January 1948 the Council passed a resolution. That resolution was based upon our letter and took into account Pakistan's reply. I propose to deal with this reply in the afternoon, because it requires a great deal of analysis.

Broadly speaking, what is that reply? It is a denial of the charges; it is a denial that they had given any assistance; it is a denial that there had been any aggression; and then it is a counterclaim on various other matters. But there is no principle of international law or international behaviour which says that if, in respect of a situation or particular problem, a complaint is brought, other misdemeanours in something else can be pleaded in bar. Therefore, I do not propose at this stage to go into the irrelevant intrusion of other complaints made by Pakistan. If the Security Council so desires, in its judgement, it is up to it, but so far as I am concerned I propose to keep to the subject of Kashmir. That itself will take us some time.

Therefore, the position is that we made certain complaints. We asked for certain remedies. Pakistan denied the

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facts that we alleged. A little later that denial was disproved, not only by what I have read out to to the Council from outside sources but by the United Nations Commission itself. Then—I ask as a simple matter of analysis—what remains? We make a complaint; we assert certain facts; those facts would amount to aggression—and I presume the Security Council would not argue that they do not amount to aggression. If those facts amount to aggression and the answer is a dental that the facts took place, and if, afterwards, the Security Council finds that denial was not correct, then what remains? All that remains is the aggression.

The defence is taken away, and therefore, in the letter that was put before the Security Council, the answer they gave was :

> "The situation in their view is due to the aid which the invaders,consisting of nationals of Pakistan and of tribesmen from the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India."

That is quoted in the reply, which goes on to say :

> "They have requested the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India'. They have also threatened that if Pakistan does not do so, the Government of India may 'enter Pakistan territory, in order to take military action against the invaders'." [S 1100, anne×6, document I, para.1.].

At this moment I want to refer to that last paragraph. I have read out what we said. Does that amount to a threat? What we said to the Security Council was, "We want to refrain from doing this. We may be driven to a position where we have nothing else to do, because invasion must lead to war and must spread." Therefore, what we said to the

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Security Council was not, "If you do not do this we are going to invade". That is not what we said. In fact, right through the Kashmir operations, at a great cost of human lives, we kept this war restricted. That is a story by itself.

Then comes the denial. The letter from the Minister for Foreign Affairs of Pakistan to the Secretary-General of the United Notions dated 15 January 1948 says :

> "Pakistan Government emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India." [*Ibid.*, para. 3].

That is a total, straight denial. They deny they are giving aid and assistance to the "so-called" invader, or that they have committed any act of aggression. The document continues :

> "On the contrary and solely with the object of maintaining friendly relations between the two Dominions, the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war." [*Ibid.*].

This is elaborated in document II. Paragraph 3, sub-paragraph 5, is a reference to Kashmir, and states :

> "That India obtained the accession of the State of Jammu and Kashmir by fraud and violence, and that large-scale massacre, looting and atrocities on the Muslims of Jammu and Kashmir State have been perpetrated by the armed forces of the Maharajah of Jammu and Kashmir and the Indian Union and by the non-Muslim subjects of the Maharajah and of the Indian Union." [*Ibid.*, document II. para, 3].

Now let us assume that all these facts have substance. I do not for one moment say that they have; in fact, they

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are entirely untrue. But supposing they were true; what rights under the Charter does Pakistan have to go and punish somebody else for that reason? That is not the function of a neighbouring State. So that the aggression is justified by the fact that, first, India obtaind an accession by fraud and by violence—something which we shall go into this afternoon—and that, therefore, they are entitled to invade. In other words, it is taking the law—if it was the law—into their own hands. That is war. That is aggression. If one returns to that, then it will be a case of each side claiming right on its own side, and I say that, irrespective of the truth or otherwise of this matter, this entry would amount to aggression.

> "That numerious attacks on Pakistan territory have been made by the Royal Indian Air Force, by armed bands from the Indian Union and the State of Jammu and Kashmir." [*Ibid.*]

This has been denied by Indian Army officials, who were at that time British officers. No preparations were made for going into Kashmir; in fact, we lost all our men who went there on the first day.

The Security Council met for the first time on 6 January 1948; we complained on 1 January, the Council me on the 6th and did some preliminary, business, and Pakistan filed a reply on the 15th from which I have read. On 17 January 1948 the Council adopted the following resolution :

> "*The Security Council,*
>
> "*Having heard* statements on the situation in Kashmir from representatives of the Governments of India and Pakistan,
>
> "*Recognizing* the urgency of the situation,
>
> "*Taking note* of the telegram addressed on 6 January by its President to each of the parties and of their intention to conform to the Charter,

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"*Calls upon* both the Government of India and Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;

"*And further requests* each of those Governments to inform the Council immediately of any material change"—I request you, Mr. President, to take note of this pharase "to inform the Council immediately of any material change" because it appears afterwards—"in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration of the Council, and consult with the Council thereon.

My Government submits that from that day onwards, the basic ideas, the basic principles of the Security Council's resolutions have been violated by our sister State of Pakistan because the appeals to the people were in the opposite direction, as I pointed out. Nothing was done to improve the situation. More help followed and, what is more, as the years went on, this became, as was said by the Commission, a large-scale undeclared war; and, therefore, from the very beginning, if it is true that there was the regrettable behaviour of committing aggression and then trying to defend it, it was even worse when the Security Council called upon the party concerned to take no further action, and that is part of the answer which the Government of India has to give at this stage : to point out how, during these nine years, every one of these have been violated, and violations are continuing. That is why I said in the beginning that it is not sufficient to catch an argument somewhere at a cross-section and say that that is the picture. You have to look at what it behind, at what is going on, and what is likely to go on in the future if the words of the Minister for Foreign Affairs of Pakistan [illegible] to be construed in their proper meaning.

Now, the "material change" to which I referred. On 20

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Janugry, three days later, the Security Council further considered the matter and this is its resolution :

"*The Security Council,*

"*Considering* that it may investigate any dispute or any situation which might, by its continuance, en-danger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency.

"*Abopts the following resolution* :"

(I want to point out that this resolution of 20 January 1948 is one which binds the Security Council. It was a decision of the Council in regard to its own conduct.)

"A. A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.

"Each representative on the Commission shall be entitled to select his alternates and assistants.

"B, The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it."

That sentence gives all the weight that it necessary to the findings to which I previously referred. It is not as though the Commission's report were an unofficial document. It was in obedience to this mandate.

"It shall keep the Security Council currently informed of its activities and of the development of the situation."

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—I regret to say that, as a material matter, the Commission did not do so.—"It shall report to the Security Council regularly, submitting its conclusions and proposals.

"C. The Commission is invested with a dual function :

"(1) To investigate the facts pursuant to Article 34 of the Charter ;

"(2) To exercise, without interupting the work of the Security Council, and mediatory influence likely to smooth away difficulties; to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council, have been carried out.

"D. The Commission shall perform the functions described in Clause C :

"(1) In regard to the situation in the Jammu and Kashmir State set out in the letter of the representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and

"(2) In regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; when the Security Council so directs."

So I submit that, even according to that resolution, any reference to all these irrelevant matters is outside the competence of this resolution. This was what we both accepted.

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"E. The Commission shall take its decision by majority vote. It shall determine its own procedure...

.....

"G. The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary." [S/1100. annex 1.]

These two resolutions may be taken together for consideration. The Government of India accepted the resolution of 20 January. It accepted that resolution, despite its undisputed and irrevocable claim to sovereignty over this territory, in view of the fact that the situation was likely to lead to difficulties, and because of its faith in the United Nations—then perhaps more fresh than it is today, but still a faith that is founded in the Charter and the recognition that, whatever may happen in the intervening period, by and large, truth catches up. Governments that have a responsibility for their own territories will not sit back and brook aggression from a neighbour. Therefore, we accepted these two resolutions and agreed to the setting up of the Commission in order that it might perform its dual function, and I submit that, in the performance of the first of these functions. the Security Council has before it the facts. It would take me many a long day to sift all the paragraphs, all the statements, all the questionnaires, the assurances given in great detail, but the fact does remain—and this is to be corroborated after—that the Commission did report that there was aggressson, that there was material change in the situation—of which the Security Council was kept in the dark. At that time changes were occurring in the situation, and it is not as though those changes stopped there, those changes still continue, so as to make it impossible to pursue the root of the matter on the lines that were thought of five years ago.

The Security Council, therefore, adopted its resolution of 20 January and, having done so, went on to inquire about various things. Meanwhile the Security Council changed the title to the "India-Pakistan Question". We stated at that

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time that we had no objection to the use of any words which might be desired, but we maintained that the Kashmir question was the subject of the complaint.

On 21 April 1948 the Council adopted another resolution [S/726]. That resolution was a modification, and it gave new instructions to the Commission providing for the withdrawal of the troops and the holding of a plebiscite, and the membership of the Commission was increased to five. On 5 May of that year, the Government of India formally informed the Security Council of its rejection of certain parts of this resolution, and that correspondence is contained in document S/734/Corr. 1. India, however, expressed its willingness to confer with the Commission. The letter sta ed :

> "The Government of India have given the most careful consideration to the resolution of the Security Council concerning their complaint against Pakistan over the dispute between the two countries regarding the State of Jammu and Kashmir. The Government of India regret that it is not possible for them to implement those parts of the resolution against which their objections were clearly stated by their delegation, objections which, after consultation with the delegation, the Government of India fully endorse.
>
> "If the Council should still decide to send out the Commission referred to in the preamble of the resolution, the Government of India would be glad to confer with it." [S/1100, annex 3].

That letter was signed by Mr. Nehru, the Prime Minister and Minister for External Affairs of India.

Irrespective of the fact that we did not agree to the expansion of the terms of reference, the Government of India felt that it would be inhospitable and discourteous to the United Nations not to see the members of the Commission. There are cynics who say that that was where our troubles began, but it would be wrong to take that view, because if nations, out of

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risks and fears in this direction, would not enter into negotiations, then they would not be able to assist in the implementation of the functions of the Charter. But, and I say this in all sincerity, that carries with it the fact that one should not penalize those who necessarily do not stick to the letter of their communication, that is to say, they do not confine themselves to that, but are prepared to go a little further in exploration. Therefore, while we rejected this resolution and refused to accept it, we agreed to receive the Commission.

At that time, Mr. Gopalaswami Ayyangar, who was the Minister in the Indian Cabinet responsible for these affairs, spoke before the Security Council and he registered objections. I will not read the whole of his speech which was very long, but it is apparent from the preliminary discussion in January 1948 that it all turns upon what we agreed to. I have made nc comment on this, but if I were to do so, I could say that per haps it was a little previous and it went to the substance. Mr Gopalaswami Ayyangar said :

> "I would now proceed to review briefly some of the detailed provisions of the draft resolution presently under consideration. By way of anticipating a possible claim from the other side, I desire to say a few words on the question of accession…" whether the State of Jammu and Kashmir is to accede to India or Pakistan". The contention has been advanced"—and this is our position—"that the accession is for a temporary period"—to do that it will be necessary to repeal an Act of Parliament—"and a limited purpose, and when that period elapses and that purpose has been served, it ceases to be operative." [285th meeting, p. 13.].

That was the contention. Mr. Gopalaswami Ayyanger went on to say :

> "We, on our side, repudiate this claim."—This is as early as 1948, so it is not an afterthought.—"The accession which took place on 26 October 1947 was both legal and lawful. It has been followed up by India in the discharge

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of all the obligations that her acceptance of the accession has imposed upon her. She has saved the Jammu and Kashmir State from disintegration. She is now resisting those who are attacking that integrity even today. She is protecting the State's large population from the unfriendly attentions of raiders from outside.

"The accession therefore subsists today and will subsist even after the fighting ceases and peace and order have been restored."

That has been the basis of our position from 1948 onwards, it has never moved. Mr. Gopalaswami Ayyangar went on to say : "Until then, Pakistan has no constitutional position in Jammu and Kashmir".

He went on to make a statement which is very important from our point of view :

"After the fighting ceases, the whole of the State will have to come under one Government. By the whole of the State. I include also the area which is now under the control of the rebels and raiders. When the whole of the State thus comes under one administration—and that, the administration of the State of Jammu and Kashmir—India's garrisons will need to be planted at her outer frontiers on the west of the Jammu and Kashmir State. This planting is necessary for enabling India to discharge her obligations for the defence of the State which she has taken over under the Instrument of Accession." [*Ibid.*, page 14].

This is an undertaking which is not only sancrified by our Constitution, it is enjoyed by an Act of Parliament of the United Kingdom, which is the basis of our Constitution. These obligations that we are carrying out were also agreed to by the Security Council. The Security Council at no time challenged either the sovereignty of Jammu and Kashmir or the validity of the accession, and that is the only thing that stays. Therefore,

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wherever the resolution of 21 April 1948 goes into the question of treating the two countries as though they were two parties to a complaint, we have resisted that position and we have not subscribed to that part.

If it were necessary, I would go into the details of the 21 April resolution, but I do not think it is necessary because we are now covered by the resolution that followed The Commission was appointed by the 21 April resolution. We did not accept that resolution, but what did Pakistan do? Pakistan protested against the resolution without accepting it. It, however, chose Argentina as a member of the Commission on the same day. We objected to certain parts of it, but we agreed to receive the Commission. Pakistan protested and said they would not accept the resolution.

So if the resolution of 21 April has any value, then it depends upon the juridical argument: what is the status of a Security Council resolution under Chapter VI of the Charter which makes recommendations. And it can have value as part of the process of conciliation only if the two parties agree. In the first instance, we did not agree entirely but we did agree to its function. Pakistan rejected it. Then Pakistan came in as a matter of conduct. By conduct it ratified parts of it, and therefore it has been necessary for the Security Council to examine the conduct and how far and into what regions this conduct travels. And so when, in the observations of the representatives of Colombia and Cuba the other day, it was hinted—not said but hinted—they were, quite rightly, concerned about the position of the Security Council, it became necessary to look into the substance of it and see what we agreed to and what we did not agree to.

As a result of this resolution, and in spite of the fact that both sides were unhappy about it, the Commission did go and it was well received in India. We did our best to make it acceptable in Kashmir and the Commission spent a great deal of time.

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